

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE COUNCIL

FIFTY-NINTH PARLIAMENT

FIRST SESSION

WEDNESDAY, 15 SEPTEMBER 2021

hansard.parliament.vic.gov.au

By authority of the Victorian Government Printer

The Governor

The Honourable LINDA DESSAU, AC

The Lieutenant-Governor

The Honourable KEN LAY, AO, APM

The ministry

Premier.	The Hon. DM Andrews, MP
Deputy Premier, Minister for Education and Minister for Mental Health	The Hon. JA Merlino, MP
Attorney-General and Minister for Emergency Services	The Hon. J Symes, MLC
Minister for Transport Infrastructure and Minister for the Suburban Rail Loop	The Hon. JM Allan, MP
Minister for Training and Skills and Minister for Higher Education	The Hon. GA Tierney, MLC
Treasurer, Minister for Economic Development and Minister for Industrial Relations.	The Hon. TH Pallas, MP
Minister for Child Protection and Family Services and Minister for Disability, Ageing and Carers	The Hon. AR Carbines, MP
Minister for Public Transport and Minister for Roads and Road Safety .	The Hon. BA Carroll, MP
Minister for Energy, Environment and Climate Change and Minister for Solar Homes	The Hon. L D’Ambrosio, MP
Minister for Health, Minister for Ambulance Services and Minister for Equality	The Hon. MP Foley, MP
Minister for Ports and Freight, Minister for Consumer Affairs, Gaming and Liquor Regulation and Minister for Fishing and Boating	The Hon. MM Horne, MP
Minister for Crime Prevention, Minister for Corrections, Minister for Youth Justice and Minister for Victim Support	The Hon. NM Hutchins, MP
Minister for Local Government, Minister for Suburban Development and Minister for Veterans	The Hon. SL Leane, MLC
Minister for Water and Minister for Police.	The Hon. LM Neville, MP
Minister for Industry Support and Recovery, Minister for Trade, Minister for Business Precincts, Minister for Tourism, Sport and Major Events and Minister for Racing	The Hon. MP Pakula, MP
Assistant Treasurer, Minister for Regulatory Reform, Minister for Government Services and Minister for Creative Industries	The Hon. DJ Pearson, MP
Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business and Minister for Resources.	The Hon. JL Pulford, MLC
Minister for Multicultural Affairs, Minister for Community Sport and Minister for Youth	The Hon. RL Spence, MP
Minister for Workplace Safety and Minister for Early Childhood	The Hon. I Stitt, MLC
Minister for Agriculture and Minister for Regional Development	The Hon. M Thomas, MP
Minister for Prevention of Family Violence, Minister for Women and Minister for Aboriginal Affairs.	The Hon. G Williams, MP
Minister for Planning and Minister for Housing	The Hon. RW Wynne, MP
Cabinet Secretary	Ms S Kilkenny, MP

Legislative Council committees

Economy and Infrastructure Standing Committee

Mr Barton, Mr Erdogan, Mr Finn, Mr Gepp, Mrs McArthur, Mr Quilty and Mr Tarlamis.

Participating members: Dr Bach, Ms Bath, Dr Cumming, Mr Davis, Mr Limbrick, Ms Lovell, Mr Meddick, Mr Ondarchie, Mr Rich-Phillips, Ms Shing, Ms Vaghela and Ms Watt.

Environment and Planning Standing Committee

Dr Bach, Ms Bath, Dr Cumming, Mr Grimley, Mr Hayes, Mr Meddick, Mr Melhem, Dr Ratnam, Ms Taylor and Ms Terpstra.

Participating members: Ms Burnett-Wake, Ms Crozier, Mr Davis, Dr Kieu, Mrs McArthur, Mr Quilty and Mr Rich-Phillips.

Legal and Social Issues Standing Committee

Ms Burnett-Wake, Ms Garrett, Dr Kieu, Ms Maxwell, Mr Ondarchie, Ms Patten, Dr Ratnam and Ms Vaghela.

Participating members: Dr Bach, Mr Barton, Ms Bath, Ms Crozier, Dr Cumming, Mr Erdogan, Mr Grimley, Mr Limbrick, Ms Lovell, Mr Quilty, Ms Shing, Mr Tarlamis and Ms Watt.

Privileges Committee

Mr Atkinson, Mr Bourman, Mr Davis, Mr Grimley, Mr Leane, Mr Rich-Phillips, Ms Shing, Ms Symes and Ms Tierney.

Procedure Committee

The President, the Deputy President, Ms Crozier, Mr Davis, Mr Grimley, Dr Kieu, Ms Patten, Ms Pulford and Ms Symes.

Joint committees

Dispute Resolution Committee

Council: Mr Bourman, Ms Crozier, Mr Davis, Ms Symes and Ms Tierney.

Assembly: Ms Allan, Ms Hennessy, Mr Merlino, Mr Pakula, Mr R Smith, Mr Walsh and Mr Wells.

Electoral Matters Committee

Council: Mr Erdogan, Mrs McArthur, Mr Meddick, Mr Melhem, Ms Lovell, Mr Quilty and Mr Tarlamis.

Assembly: Ms Hall, Dr Read and Mr Rowswell.

House Committee

Council: The President (*ex officio*), Mr Bourman, Mr Davis, Mr Leane, Ms Lovell and Ms Stitt.

Assembly: The Speaker (*ex officio*), Mr T Bull, Ms Crugnale, Ms Edwards, Mr Fregon, Ms Sandell and Ms Staley.

Integrity and Oversight Committee

Council: Mr Grimley and Ms Shing.

Assembly: Mr Halse, Mr Rowswell, Mr Taylor, Ms Ward and Mr Wells.

Pandemic Declaration Accountability and Oversight Committee

Council: Mr Bourman, Ms Crozier, Mr Erdogan and Ms Shing.

Assembly: Mr J Bull, Ms Kealy, Mr Sheed, Ms Ward and Mr Wells.

Public Accounts and Estimates Committee

Council: Mr Limbrick, Mrs McArthur and Ms Taylor.

Assembly: Ms Blandthorn, Mr Hibbins, Mr Maas, Mr Newbury, Mr D O'Brien, Ms Richards and Mr Richardson.

Scrutiny of Acts and Regulations Committee

Council: Ms Patten, Ms Terpstra and Ms Watt.

Assembly: Mr Burgess, Ms Connolly, Mr Morris and Ms Theophanous.

Heads of parliamentary departments

Assembly: Clerk of the Legislative Assembly: Ms B Noonan

Council: Clerk of the Parliaments and Clerk of the Legislative Council: Mr A Young

Parliamentary Services: Secretary: Mr P Lochert

MEMBERS OF THE LEGISLATIVE COUNCIL
FIFTY-NINTH PARLIAMENT—FIRST SESSION

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The Hon. N ELASMAR (from 18 June 2020)

The Hon. SL LEANE (to 18 June 2020)

Deputy President

The Hon. WA LOVELL

Acting Presidents

Mr Bourman, Mr Gepp, Mr Melhem and Ms Patten

Leader of the Government

The Hon. J SYMES

Deputy Leader of the Government

The Hon. GA TIERNEY

Leader of the Opposition

The Hon. DM DAVIS

Deputy Leader of the Opposition

Ms G CROZIER

Member	Region	Party	Member	Region	Party
Atkinson, Mr Bruce Norman	Eastern Metropolitan	LP	Maxwell, Ms Tania Maree	Northern Victoria	DHJP
Bach, Dr Matthew ¹	Eastern Metropolitan	LP	Meddick, Mr Andy	Western Victoria	AJP
Barton, Mr Rodney Brian	Eastern Metropolitan	TMP	Melhem, Mr Cesar	Western Metropolitan	ALP
Bath, Ms Melina Gaye	Eastern Victoria	Nats	Mikakos, Ms Jenny ⁶	Northern Metropolitan	ALP
Bourman, Mr Jeffrey	Eastern Victoria	SFFP	O'Donohue, Mr Edward John ⁷	Eastern Victoria	LP
Burnett-Wake, Ms Cathrine ²	Eastern Victoria	LP	Ondarchie, Mr Craig Philip	Northern Metropolitan	LP
Crozier, Ms Georgina Mary	Southern Metropolitan	LP	Patten, Ms Fiona Heather	Northern Metropolitan	FPRP
Cumming, Dr Catherine Rebecca	Western Metropolitan	Ind	Pulford, Ms Jaala Lee	Western Victoria	ALP
Dalidakis, Mr Philip ³	Southern Metropolitan	ALP	Quilty, Mr Timothy	Northern Victoria	LDP
Davis, Mr David McLean	Southern Metropolitan	LP	Ratnam, Dr Samantha Shantini	Northern Metropolitan	Greens
Elasmar, Mr Nazih	Northern Metropolitan	ALP	Rich-Phillips, Mr Gordon Kenneth	South Eastern Metropolitan	LP
Erdogan, Mr Enver ⁴	Southern Metropolitan	ALP	Shing, Ms Harriet	Eastern Victoria	ALP
Finn, Mr Bernard Thomas Christopher	Western Metropolitan	LP	Somyurek, Mr Adem ⁸	South Eastern Metropolitan	Ind
Garrett, Ms Jane Furneaux	Eastern Victoria	ALP	Stitt, Ms Ingrid	Western Metropolitan	ALP
Gepp, Mr Mark	Northern Victoria	ALP	Symes, Ms Jaclyn	Northern Victoria	ALP
Grimley, Mr Stuart James	Western Victoria	DHJP	Tarlamis, Mr Lee ⁹	South Eastern Metropolitan	ALP
Hayes, Mr Clifford	Southern Metropolitan	SAP	Taylor, Ms Nina	Southern Metropolitan	ALP
Jennings, Mr Gavin Wayne ⁵	South Eastern Metropolitan	ALP	Terpstra, Ms Sonja	Eastern Metropolitan	ALP
Kieu, Dr Tien Dung	South Eastern Metropolitan	ALP	Tierney, Ms Gayle Anne	Western Victoria	ALP
Leane, Mr Shaun Leo	Eastern Metropolitan	ALP	Vaghela, Ms Kaushaliya Virjibhai ¹⁰	Western Metropolitan	Ind
Limbrick, Mr David	South Eastern Metropolitan	LDP	Watt, Ms Sheena ¹¹	Northern Metropolitan	ALP
Lovell, Ms Wendy Ann	Northern Victoria	LP	Wooldridge, Ms Mary Louise Newling ¹²	Eastern Metropolitan	LP
McArthur, Mrs Beverley	Western Victoria	LP			

¹ Appointed 5 March 2020

² Appointed 2 December 2021

³ Resigned 17 June 2019

⁴ Appointed 15 August 2019

⁵ Resigned 23 March 2020

⁶ Resigned 26 September 2020

⁷ Resigned 1 December 2021

⁸ ALP until 15 June 2020

⁹ Appointed 23 April 2020

¹⁰ ALP until 7 March 2022

¹¹ Appointed 13 October 2020

¹² Resigned 28 February 2020

Party abbreviations

AJP—Animal Justice Party; ALP—Labor Party; DHJP—Derryn Hinch's Justice Party;

FPRP—Fiona Patten's Reason Party; Greens—Australian Greens; Ind—Independent;

LDP—Liberal Democratic Party; LP—Liberal Party; Nats—The Nationals;

SAP—Sustainable Australia Party; SFFP—Shooters, Fishers and Farmers Party; TMP—Transport Matters Party

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Wednesday, 15 September 2021

The PRESIDENT (Hon. N Elasmara) took the chair at 9.05 am and read the prayer.

Announcements

ACKNOWLEDGEMENT OF COUNTRY

The PRESIDENT (09:05): On behalf of the Victorian state Parliament I acknowledge the Aboriginal peoples, the traditional custodians of this land which has served as a significant meeting place of the First People of Victoria. I acknowledge and pay respect to the elders of the Aboriginal nations in Victoria past, present and emerging and welcome any elders and members of the Aboriginal communities who may visit or participate in the events or proceedings of the Parliament.

Papers

PAPERS

Tabled by Clerk:

Planning and Environment Act 1987—Notice of Approval of an amendment to Victoria Planning Provisions—Amendment VC211.

A Statutory Rule under the Courts (Case Transfer) Act 1991—No. 115.

Business of the house

NOTICES

Notice of motion given.

Notice of intention to make a statement given.

Members statements

COVID-19

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (09:09): I see the Treasurer is out waving the finger at the construction industry. The construction and building industry is an incredibly important industry in this state, so on that I agree with him. They do need to find ways to make sure that the industry can continue to work safely. We need our system opened up, not closed down. But the very first step that the Treasurer could take—the very first step—would be to ensure that all of the health information and the advice on which the current settings in the building and construction industry are based are released, because they have never been released. It is a scandal that sectors of the economy have been closed down without the briefings and the information behind those decisions being made public and transparent.

This is important because those industries and sectors are entitled to see that information if they are being closed down, but it is also important in crafting a way forward to enable the sectors to open up, to actually find a safe way forward to maximise the ability of the sector to respond and to safely limit the spread of the virus in their workplaces. I say we have got to open up but we have got to open up safely, and a key part of that is the Treasurer, now that he has entered the fray, insisting on the release of that health information, the briefings and the background documents, into the public domain. What on earth is the Premier keeping them secret for? And the Treasurer's intervention now opens the way.

AFL GRAND FINAL

Dr CUMMING (Western Metropolitan) (09:10): Today I speak about the AFL Grand Final. My beloved Bulldogs will play the Demons in the grand final, and you could not ask for a better match—two teams that have certainly had their hard times. For the Demons it will be their first minor premiership in 57 years. The Bulldogs supporters can understand this; before their grand final win in

2016 they had had 62 years of premiership drought. And while the Bulldogs supporters may understand this, I am sure that all of them, just like me, are hoping that the grand final will be a replay of 1954. In 1954 the Bulldogs defeated the Demons in the grand final 102 to 51.

Unfortunately none of us will be able to be at the game, as the grand final has moved to Perth. Apparently two Melbourne teams cannot play in an outdoor stadium in Melbourne, even with social distancing and a COVID-safe plan in place. So for what looks like being the greatest grand final in nearly 60 years, we will be sitting at home without our friends and our family, cheering them on. So go the Bulldogs, go the Doggies. Doggie, Doggie, Doggies; woof, woof, woof!

SUPPRESSION ORDERS

Mr GRIMLEY (Western Victoria)

Incorporated pursuant to order of Council of 7 September:

Recently there was a story published in the *Age* titled, ‘Besmirching the “good bloke”’: rape survivor speaks out’.

This was a story all too familiar for many women who have been in an abusive relationship. The woman in this story has been silenced by the court, taking away her right to speak of the abuse she had received at the hands of her husband.

Often these crimes happen behind closed doors unbeknownst to friends, family, and the broader community. The victims usually suffer in silence, they don’t seek support, they feel trapped, and they live in constant fear.

It takes a lot of courage for a person to come forward and seek assistance when they are a victim of family violence and sexual abuse.

It’s imperative that we support women when they do come forward to seek help to escape their abusive relationship or report on abuse.

However, time after time when cases are brought before Victorian courts the perpetrator is given anonymity through a suppression order.

Herein lies the issue: in 2020 Victoria held more than half of the country’s suppression orders. That is 493 out of 903. It is shameful that these people who commit such heinous crimes against women are given protection by the courts.

We must give victim-survivors the right to tell their story, or to choose for themselves if they want to have their cases public.

For too long in Victoria, we have been protecting perpetrators from public scrutiny and for too long we have failed to support victims in the courts. Derryn Hinch’s Justice Party will always put the rights of victims first.

YOM KIPPUR

Mr ERDOGAN (Southern Metropolitan)

Incorporated pursuant to order of Council of 7 September:

Last week was Rosh Hashanah, the Jewish New Year, which means this Wednesday at sunset will mark the start of Yom Kippur, the Day of Atonement, which is the holiest day in the Jewish calendar.

My electorate of Southern Metropolitan Region is home to much of our state’s vibrant Jewish community, and Yom Kippur is an important day for them—a time to reflect, atone and repent after the new year.

We know that the community will be celebrating differently this year due to the global pandemic. While this is not easy, I know that our Jewish community stands behind the need to observe these measures to ensure the safety of friends, family, and the wider community.

As many in the Southern Metropolitan Region will be fasting during Yom Kippur, I hope your fast is safe and finds you in good health.

I wish everyone who is observing a safe and fulfilling Yom Kippur.

Tzom Kal!

TEACHERS**Mr ERDOGAN** (Southern Metropolitan)**Incorporated pursuant to order of Council of 7 September:**

On another matter, our teachers often go above and beyond in the call of duty, but this has never been more true than over the past two years during the global COVID-19 pandemic.

Across the state hundreds of Victorian teachers are being recognised for their incredible dedication to students, families and local communities during the entirety of their illustrious careers through the Recognition of Service to Victorian Education program.

In my electorate of Southern Metropolitan Region, 26 teachers have been recognised for more than 40 years of service, during which time they have helped shape the lives of so many students and have continued to do so during the pandemic under extraordinary circumstances.

I would like to take this opportunity to congratulate some of the amazing teachers and staff in the Southern Metropolitan Region for their incredible dedication to our school communities: Peter Cracknell of Armadale Primary School, Paul Jones of Balwyn High School and Susan Cook of Mentone Girls Secondary College for 40 years of service; and Deborah Harman of Balwyn High School, Sheryl Skewes of Beaumaris Primary School and Roger Kettle of Canterbury Girls Secondary College for 45 years of service.

I would also like to join the Deputy Premier in congratulating Sheila Pfeffer of Sandringham East Primary School for 55 years of service.

Thank you to all these dedicated teachers for doing so much to help our kids reach their potential.

LEARN LOCAL PROVIDERS**Mr MELHEM** (Western Metropolitan)**Incorporated pursuant to order of Council of 7 September:**

As Parliamentary Secretary for Training and Skills, last month I visited three Learn Local providers in my electorate of Western Metropolitan Region—Footscray Community Arts Centre, Australian Croatian Community Services, and Spotswood Community House, which is managed by the team at Williamstown Community and Education Centre.

Footscray Community Arts Centre is an independent creative precinct that offers unique and inclusive performances, workshops, and community events. The centre is highly responsive to the social and cultural needs of Footscray's marginalised and disadvantaged communities and seeks to improve access and pathways to the arts.

It was great to meet Hayley and Freyja who took part in the Axis workshop program, a hands-on program for women who want to learn more about the arts tech sector. And it was clear that the course had a significant impact on each of their professional and personal journeys.

Australian Croatian Community Services provide an important service to Melbourne's diverse western suburbs communities. Their community-based ACFE learning opportunities are tailored to meet the individualised needs of adult learners and largely focus on English and digital literacy. The impact of these courses on the quality of life of their participants is immeasurable, highlighted by diligent student Rasema, who I spoke with.

The team at Williamstown Community and Education Centre have serviced their community exceptionally for 47 years through their two houses. Their broad range of ACFE programs reflect the interests and skill development needs of their local community and it was excellent to hear that they are eager to expand their capacity to reach more participants.

This government recognises the phenomenal contribution of Learn Local providers in Victoria, and the challenges they have faced, which is why we remain dedicated to giving them the support they need to prosper.

GANESH CHATURTHI**Ms VAGHELA** (Western Metropolitan)**Incorporated pursuant to order of Council of 7 September:**

1. On 10 September, Hindus across the world observed the auspicious day of Ganesh Chaturthi.

2. This festival marks the birth of the beloved Hindu deity Lord Ganesha, one of the most worshipped Hindu deities.
3. The widely revered god is believed to bring good luck, success, wisdom, and intellect, and to remove obstacles.
4. Worshippers install beautiful idols of Lord Ganesha in their homes or in their localities.
5. They celebrate by praying, singing religious songs, dancing to drum and eating festive foods.
6. Ganpati Visarjan follows, wherein the statue is immersed in water, and recently people have started doing this in an environmentally friendly way.
7. I wish a very happy Ganesh Chaturthi to all celebrating this occasion in the Western Metropolitan Region and Victoria.
8. Ganpati Bappa Morya!

PARYUSHANA

Ms VAGHELA (Western Metropolitan)

Incorporated pursuant to order of Council of 7 September:

9. On another note, Jains across the world are celebrating Paryushana.
10. Jainism is an ancient Indian religion.
11. The Shwetambar sect of Jainism observes Paryushana from 3 to 11 September, and Digambara Jains observe Paryushana from 10 to 19 September.
12. Paryushana means ‘abiding and coming together’.
13. It is a time to consider soul searching and self-analysis. It is a celebration of spiritual awareness.
14. In Victoria, our Jain community accomplished an important milestone this year.
15. On 4 August 2021, the foundation stone laying ceremony was conducted for the first Jain temple in Victoria by Melbourne Shwetambar Jain Sangh (MSJS).
16. Jain temples in India are architectural marvels and I am sure this temple will also be a sight to behold.
17. I congratulate the entire MSJS team and the Jain community for their tireless community service.
18. I wish our Jain community a happy Paryushana Parva.
19. Micchami Dukkadam! Jai Jinendra!

MARTIN BLIGHT

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood)

Incorporated pursuant to order of Council of 7 September:

I wish to extend my heartfelt condolences to the family, friends and work colleagues of the late Martin ‘Marty’ Blight who passed away on Monday, 13 September 2021, in hospital.

I understand Marty became unwell after contracting COVID-19.

Marty was a long-term employee of Serco in Mill Park. He was a father, a friend to many, and reportedly was also a very keen fisherman.

He was a committed member of the Australian Services Union. I know many of my comrades at the ASU are also grieving right now.

I understand that the ASU has been speaking with Marty’s family directly and both the ASU and Marty’s family have shared an important message to everyone—to get vaccinated as soon as possible so that no-one else has to go through the trauma of losing someone to COVID-19.

I join Marty’s family in strongly encouraging everyone to get vaccinated without delay.

Sending all my heartfelt sympathy and solidarity to Marty’s family, friends and work colleagues at this very difficult time.

Vale, Marty Blight.

OLIVIA STEVENS**Ms SHING** (Eastern Victoria)**Incorporated pursuant to order of Council of 7 September:**

Like so many others, I was so saddened at the news that Olivia Stevens, aged just six and a prep student at Gippsland Grammar, lost her life after the rollover of an off-road vehicle in Rosedale. Olivia was, to all who knew her, without a doubt, loved and admired for her spirit and her beautiful smile, and a dear friend to her classmates from kinder and prep. I cannot even begin to imagine the pain that her family and community are feeling right now, but I send my love and condolences to everyone who is grieving right now, including to her parents Yana and Scott, her brothers Kobi and Thomas, and to the school community where Olivia so clearly made such a beautiful and lasting impression on everyone she met.

MENTAL HEALTH FUNDING**Ms SHING** (Eastern Victoria)**Incorporated pursuant to order of Council of 7 September:**

I rise today to recognise and thank everyone who is continuing to work so hard to provide support and care for those across Eastern Victoria who are struggling with their mental health and wellbeing as a consequence of the pandemic. It is so important that we properly resource the many local organisations that are assisting people in need, and to that end, I'm glad to see that on top of the \$225 million that has been allocated to mental health support during the pandemic, the extra \$13 million for pop-up services will enable clients, consumers and patients to get better access to care across Gippsland via Latrobe Regional Hospital. We are absolutely determined to not only implement every single recommendation from the mental health royal commission to fix our broken system, but also to provide the mental health funding and workforce support that is needed as pandemic recovery efforts continue.

Bills**BAIL AMENDMENT (REDUCING PRE-TRIAL IMPRISONMENT OF WOMEN, ABORIGINAL, AND VULNERABLE PERSONS) BILL 2021***Statement of compatibility*

Dr RATNAM (Northern Metropolitan) (09:12): I lay on the table a statement of compatibility with the Charter of Human Rights and Responsibilities Act 2006:

In accordance with section 28 of the **Charter of Human Rights and Responsibilities Act 2006** (the Charter), I make this statement of compatibility with respect to the **Bail Amendment (Reducing Pre-trial Imprisonment of Women, Aboriginal, and Vulnerable Persons) Bill 2021** (the bill).

In my opinion, the bill, as introduced to the Legislative Council, is compatible with, promotes, and strengthens, the human rights protected by the Charter.

I base my opinion on the reasons outlined in this statement.

Background

Over the past decade, legislative reforms to the **Bail Act 1977** (the Bail Act) have led to significant rises in the number of unsentenced prisoners on remand awaiting trial. This, in turn, has caused exponential growth in the capital and operational costs of Victoria's prison system, considerable declines in prison performance, and rising reoffending rates for both children and adults. At the same time there is no empirical evidence that the reforms have enhanced community safety.

Moreover, the reforms have also led to disproportionately higher rates of imprisonment of women, Aboriginal and Torres Strait Islander people, and children, despite the fact that these groups are not responsible for the majority of serious criminal offending in the community.

High numbers of vulnerable people being imprisoned for alleged low level offences raises concerns that the bail system is operating contrary to the fundamental rights and principles of our criminal justice system, and is contributing to injustice and recidivism.

Overview of bill

The **Bail Amendment (Reducing Pre-trial Imprisonment of Women, Aboriginal, and Vulnerable Persons) Bill 2021** will improve the process for determining bail under the **Bail Act 1977** by:

- providing for the granting of bail based on a simplified single test of “unacceptable risk”, with no reverse onus provisions; and,
- expanding and clarifying the list of surrounding circumstances to be taken into consideration in relation to bail matters.

Human Rights Issues

In my opinion, the human rights protected by the charter that are relevant to the bill are:

- The right to recognition and equality before the law (section 8)
- The right to freedom of movement (section 12)
- Cultural rights, including Aboriginal cultural rights (section 19)
- The right to liberty and security of person (section 21)
- The rights of an accused person who is detained without conviction (section 22)
- The rights of children in the criminal process (section 23)
- Rights in criminal proceedings, including the right to be presumed innocent until proven guilty (section 25)

Repeal of the reverse onus provisions in the Bail Act:

Section 21 of the Charter protects the human right to liberty and security. It provides that a person must not be deprived of their liberty except on grounds, and in accordance with procedures, established by law (section 21(3)), and that a person awaiting trial must not be automatically detained in custody, but that their release may be subject to guarantees to appear for trial and at any other stage of the judicial proceedings (section 21(6)).

Section 25(1) of the Charter states that a person charged with a criminal offence has the right to be presumed innocent until proven guilty according to law. This right applies to an accused from the point they are charged until their trial.

These Charter rights are directly reflected in the guiding principles (section 1B) of the Bail Act, that state the Act should be applied having regard to: maximising the safety of the community; the presumption of innocence and the right to liberty; fairness, transparency and consistency; and, promoting public understanding of bail processes.

Section 4 of the Bail Act also contains a general entitlement in favour of bail, recognising that an accused person maintains a right to liberty, freedom of movement, and the presumption of innocence. However, this presumption is effectively reversed in the Bail Act for those accused of some serious or repeat offences, where the ‘exceptional circumstances’ (section 4A) or ‘show compelling reason’ (section 4C) tests may apply.

These are known as ‘reverse onus’ tests, because they require that bail be refused unless a person can successfully argue their case for bail (i.e the burden of proof is on the accused to establish that exceptional circumstances or a compelling reason exists, before they may be released from custody).

Bail is not automatically granted even if an accused successfully demonstrates a compelling reason or exceptional circumstances, as all accused must still meet the ‘unacceptable risk’ test (section 4E) to receive bail (i.e. a ‘two-step process’).

The unacceptable risk test means an accused will be granted bail unless a prosecutor can establish the accused is an unacceptable risk to public safety, interfering with witnesses, committing an offence, or failing to appear at their trial.

Reverse onus tests conflict with the presumption of innocence and the right to liberty in the Charter. However, these limitations have been justified as necessary to balance these rights with the right to security also in section 21 of the Charter, and specifically, the right of the community to be safe and secure from criminal offending by a person on bail. It is also claimed that such tests may ensure bail decision makers apply a more rigorous approach to the question of bail for certain serious offences. Despite this, there is no evidence to justify the test’s efficacy in improving bail decision making or enhancing community safety.

In its comprehensive Bail Review, the Victorian Law Reform Commission (VLRC) characterised this two step process ‘illogical’, and recommended the abolition of both the reverse onus tests in favour of a single unacceptable risk test, a system also favoured by most legal stakeholders.

The more recent Bail Review by The Hon. Justice Coghlan, recommended retaining the reverse onus tests, because they were: *“more likely to enhance public confidence in the bail system ... and removal of these provisions may be seen by the community as weakening the current law by making it easier for accused persons to be granted bail.”* However, I note that Justice Coghlan’s reasoning for their retention does not reflect any human rights in the Charter, or the stated principles of the Bail Act. Justice Coghlan’s recommendations were, however, partially implemented by the Victorian Government.

I consider it doubtful whether limitations to the rights in sections 12, 21 and 25 of the Charter, by inclusion of additional reverse onus tests in the Bail Act, can be justified on the grounds of public safety and security, because any risk to public safety is already the primary consideration of the unacceptable risk test, that applies to all bail decisions. Therefore, all factors relevant to the issue of public safety that may arise during the compelling reason or exceptional circumstances test, will always already be considered in the unacceptable risk test.

If there is, indeed, a need for bail decision makers to apply a more rigorous approach to the question of bail for persons charged with certain serious offences, then such a means can be achieved by incorporating this requirement into the process for the unacceptable risk test, a less abstract and more logical framework for bail decision makers to determine risk, that does not unnecessarily limit Charter rights.

In my opinion, therefore, the bill’s amendments to the Bail Act enhance the human rights of the Charter for the following reasons:

The bill repeals the two reverse onus tests, the exceptional circumstances and show compelling reason tests, so that granting bail is based on a simplified and focussed single test of unacceptable risk. This means all bail decisions will uphold a general presumption of bail consistent with sections 12, 21 and 25 of the Charter, unless it is established that an accused is an unacceptable risk: to public safety; of interfering with witnesses; of committing an offence; or, of failing to appear for their trial. This is consistent with the recommendations of the VLRC.

The bill amends the non-exhaustive list of factors (‘surrounding circumstances’) in section 3AAA of the Bail Act, that are to be considered by bail decision makers in the unacceptable risk test. The new factors inserted by the bill provides that bail decision makers should also consider whether an alleged offence is listed in Schedule 1 or Schedule 2 of the Bail Act, when determining unacceptable risk. Including the additional consideration will provide bail decision makers with more guidance as to the seriousness of an accused’s offence when determining whether there is an unacceptable risk, because Schedule 1 and 2 offences are considered as serious offences in the context of determining bail. This will serve to provide a more logical means for bail decision makers to be reminded of the seriousness of an alleged offence, and by extension potentially applying a more rigorous approach to the question of bail, than the current reverse onus tests.

Discrimination in the operation of the Bail Act:

Section 8(2) of the Charter provides that every person has the right to enjoy his or her human rights without discrimination. Section 8(3) provides that every person is equal before the law and is entitled to the equal protection of the law without discrimination, and has the right to equal and effective protection against discrimination.

Laws, policies and programs should not be discriminatory, and you have the right to exercise your human rights without discrimination. This means that you cannot be treated unfavourably because of your personal characteristics.

‘Discrimination’ for the purposes of this right is defined under section 7 of the **Equal Opportunity and Human Rights Act 2010** to include direct or indirect discrimination on the basis of an attribute, including a person’s age, gender identity and sex, and race.

Section 23 of the Charter provides specific rights for children who are being detained or convicted of an offence, recognising that children are vulnerable due to their young age. Section 23(3) states that a child that has been convicted of an offence must be treated in a way that is appropriate for his or her age.

Section 25(3) states that a child charged with a criminal offence has the right to a procedure that takes account of his or her age and the desirability of promoting the child’s rehabilitation.

Section 19 of the Charter provides that people with particular cultural, religious, racial or linguistic background must not be denied the right to enjoy or practise their culture. Section 19(2) recognises that Aboriginal people hold distinct cultural rights.

As outlined above, reverse onus tests require that bail be refused unless accused people successfully argue their case for bail, by placing the burden of proof on the accused to establish that an exceptional or compelling reason exists before they can be released from custody.

It has been claimed that this ability to advocate before a court, to make a case for release, offers an important safeguard from unfair detention to an accused person. However, relying on an accused person to convince a court why they should not be incarcerated, is not a safeguard that is equally accessible to large cohorts of vulnerable people, including women, children and Aboriginal and Torres Strait Island persons, and those persons with mental illness and disability, whose contact with the criminal justice system is frequently the result of social, cultural and economic disadvantage.

Recent changes to the Bail Act have meant that repeat low level offending, including minor breaches of bail conditions, that are most frequently the result of poverty, homelessness, poor mental health and family violence, are being uplifted into requiring a show compelling reason test, or exceptional circumstances test, which is the same threshold for bail as the most serious offences such as murder, treason and serious sexual offences. This has led to far greater numbers of vulnerable people being held in prison on remand for charges that are unlikely to result in a custodial sentence even if they are proven.

In practice, the presence of one or more social, cultural or economic disadvantage, makes it more difficult for an accused to meet a reverse onus threshold, for example, because of access to stable housing, employment and/or engagement in social welfare programs.

A high proportion of vulnerable people will also be self-represented in their initial bail hearings, so will likely have limited capacity to comprehend the complex reverse onus tests in their self-advocacy, or be aware of, and engage, the specific additional protections for vulnerable people in the Bail Act (eg. special considerations in section 3A and 3B of the Bail Act for Aboriginal culture and children).

Inequality in the operation of the Bail Act is reflected by empirical corrections data, where the proportion of prisoners being held unsentenced in prison is more closely associated with relative levels of social, cultural and economic disadvantage, than the respective seriousness of charges.

Because of this, Victoria's prison system currently holds significantly higher proportions of women, children and Aboriginal people unsentenced and in pre-trial detention on remand, compared to the total proportion of unsentenced prisoners across the general prison population. This is despite the fact that these groups are also less likely to be charged with serious offences, and more likely to eventually be released from custody on time served, or a non-custodial sentence.

Indeed, the combination of onerous bail thresholds for low level offences has created a perverse incentive for people to plead guilty to a charge, regardless of actual guilt, as often this results in earlier release from custody than if they contest bail and their charges.

No group of people have been more damaged by disproportionate police and prison custody than Australia's First Nations people.

The Royal Commission Into Aboriginal Deaths In Custody (RCIADIC) thirty years ago recognised the urgent need for bail law reform, noting: *"... the lack of flexibility of bail procedure and the difficulty Aboriginal people frequently face in meeting police bail criteria by virtue of their socioeconomic status or cultural difference contributes to their needless detention in police custody."*

The RCIADIC also delivered specific recommendations for bail legislation, *'... that governments, in conjunction with Aboriginal Legal Services and Police Services, give consideration to amending bail legislation ... to revise any criteria which inappropriately restrict the granting of bail to Aboriginal people'*, and, *'... that governments which have not already done so should legislate to enforce the principle that imprisonment should be utilised only as a sanction of last resort.'*

The Victorian Aboriginal Legal Service (VALS) recently reprimanded the Victorian government regarding recent reforms that have expanded a general presumption against bail, that have not only failed to implement the RCIADIC recommendations, but have actively worked against their achievement.

As a direct result, the disproportionate incarceration of Aboriginal Victorians over the past decade has accelerated to the highest levels in recorded history, and moved the State even further away from its stated goal of ending justice disadvantage for Aboriginal Victorians compared to non-Aboriginal Victorians.

Higher rates of Aboriginal people held on remand without cause, further compounds the loss of culture, family and purpose for a growing number of Aboriginal people, entrenching their social and economic disadvantage, and their chances of dying in custody, throughout their lifetimes.

As well as being discriminatory, the consequences of higher pre-trial detention of people from vulnerable communities is often intergenerational and criminogenic, entrenching disadvantage and likely decreasing public safety in the long term.

In my opinion, the bill will reduce discrimination for vulnerable groups of people in the operation of the Bail Act, defined in section 8 of the Charter, and uphold rights of Women, Children and Aboriginal and Torres Strait Island persons under sections 8, 19, 23 and 25 of the Charter, for these reasons:

The bill repeals the two reverse onus tests, the exceptional circumstances and show compelling reason tests, so that granting bail is based on a simplified and focussed single test of unacceptable risk. This will ensure that the social, economic or cultural disadvantage inherent in vulnerable groups of people will not lead to a presumptive denial of bail, where these factors are irrelevant to the issue of unacceptable risk, where I consider unacceptable risk as the only reasonable limitation to Charter rights.

Repeal of the reverse onus provisions will also ensure that court decision makers are not prevented from applying more discretion for vulnerable persons, including engaging the special requirement in sections 3A and 3B of the Bail Act, relating to Aboriginal culture and children, because an accused has been unable to establish a compelling reason or exceptional circumstances.

The bill maintains that the evidentiary burden of proof must always be on the prosecution in requiring the unacceptable risk test, ensuring that bail will not be denied, and a person be remanded into custody, for the sole reason that an accused is unable to effectively present an argument for their release, that may be due to, or exacerbated because of, factors inherent to their disadvantage. However, the bill maintains as an important safety measure the provision that a bail decision maker can refuse bail where there is insufficient information to make a determination, under section 8A of the Bail Act.

The bill provides for the granting of bail based on a simplified and focussed test of unacceptable risk. A single unacceptable risk test will provide a clearer and more readily understood framework for both accused and prosecutors to present their respective cases whether applying for or opposing bail. This will increase procedural fairness on bail hearings, and may lead to more information that is relevant to achieving the purpose of the Bail Act being applied to bail decisions - primarily, the balance between the right to liberty and the presumption of innocence, with the seriousness of an offence and the risk to public safety.

The bill amends the non-exhaustive list of surrounding circumstances, relevant to applying the unacceptable risk test in section 3AAA of the Act, to include: consideration of relevant human rights under the Charter of Human Rights and Responsibilities; any parental responsibilities the accused may have in relation to a child; the likelihood of a custodial sentence for the accused; and the interests of justice. While the surrounding circumstances listed in section 3AAA are non-exhaustive and provided as guidance, inclusion of these additional factors may provide bail decision makers with greater scope to ensure consideration of bail does not occur in isolation from the context of the broader society and human rights, including the long-term and intergenerational effects of pre-trial detention.

Humane treatment when deprived of liberty:

Section 22(3) of the Charter provides that all persons deprived of liberty must be treated with humanity and dignity, including an accused person who is detained without conviction, such as an accused on remand, and that an accused person must be segregated from persons who have been convicted of offences, except where reasonably necessary (Section 22(2)).

Section 22 recognises that a person's rights in criminal proceedings, specifically the right to be presumed innocent until they have their matter decided by a court, equates to receiving conditions in pre-trial detention that reflect their presumed innocence.

In reality conditions on remand are poorer than the rest of the prison system, a fact exacerbated by record numbers of unsentenced prisoners cycling through the system. Victoria has continually failed to meet annual performance standards for prison conditions in the State Budget due to the significant increases in remand numbers.

Accused on remand generally do not receive any therapeutic programs, rehabilitation or other support while on remand, and even short periods of remand often lead to a vulnerable person struggling to re-engage with welfare and treatment on their release.

The isolation and separation from culture and kin means that the health and mental health effects of custody have been shown to be especially deleterious for Aboriginal people who continue to die in custody in Victoria when on remand for minor offences.

Young children may be separated and held in isolation due to being especially vulnerable, in conditions that may amount to solitary confinement that are in breach of international human rights standards. Children, and in particular young children, do particularly badly in the long-term across a range of health and social indicators as a result of spending time in custody.

In my opinion, the bill will uphold rights in section 22 of the Charter for these reasons:

The bill provides for the granting of bail based on a simplified single test of unacceptable risk. Repeal of reverse onus tests, will ensure that the social, economic or cultural disadvantage inherent in vulnerable groups of people will not lead to a presumptive denial of bail, where these factors are irrelevant to the issue of unacceptable risk. Therefore, the bill may lead to a reduction in the number of vulnerable people on remand,

and shorter periods of time on remand for vulnerable people, due to less complicated and more efficient bail hearings and reduced court delays. A reduction in the number of vulnerable, complex cases on remand, where there is no additional threat to public safety, will ease demand pressures on the corrections system that may improve conditions in custody.

The bill also amends the list of surrounding circumstances, relevant to bail matters in section 3AAA of the Act, to include: *“any risk of physical, psychological or other harm to the accused while on remand, including self-harm or harm by others.”* While in practical terms these considerations, such as the poor prison conditions in remand, are normally already taken into consideration by bail decision makers, inserting a specific reference in section 3AAA may serve to remind all parties involved in bail decisions to give consideration of any potential harms that are caused when a person is held in the remand environment.

Second reading

Dr RATNAM (Northern Metropolitan) (09:13): I move:

That the bill be now read a second time.

Back when the Royal Commission into Aboriginal Deaths in Custody went to work, First Nations people made up 3 per cent of Victoria’s prison population, a rate of imprisonment at around 900 per 100 000 population.

Thirty years later, by the end of the year 2019, just prior to the pandemic, First Nations prisoners made up over 10 per cent of the total prison population in Victoria, at a staggering rate of 2220 imprisoned per 100 000.

What is more, the sharpest rise in Aboriginal custody, and the greatest ever gap between the incarceration levels of Aboriginal and non-Aboriginal Victorians, has occurred in recent years under this government.

How could this happen in our time?

Social and economic disadvantage caused by dispossession, racism, and loss of culture are of course ongoing, but they can’t account for the record rises in Aboriginal imprisonment in recent years.

No, this is directly the result of recent Victorian government justice policy.

Specifically, it is the reforms to the Bail Act 1977 over the last decade that have led to almost all of the record rises in imprisonment, and disproportionately those from the most vulnerable groups.

By way of example, there were almost 2000 more prisoners in 2019 compared to 2014, and 92 per cent of these additional prisoners were unsentenced on remand.

While we were told that bail reforms would improve public safety by getting tougher on dangerous criminals, the data tells a different story, because the proportion of prisoners held unsentenced on remand is far more closely associated with relative levels of social, cultural and economic disadvantage than the respective seriousness of the alleged offences.

Most would be shocked to learn that the rates of imprisonment on remand for Aboriginal Victorians, and also women and children, is much higher than for non-Aboriginal men responsible for the most serious violent crime.

As well as being discriminatory and expensive, the consequences of higher pre-trial detention of people from vulnerable communities is often intergenerational and criminogenic, entrenching disadvantage and crime for decades.

The most tragic consequence is that Aboriginal Victorians continue to die in custody when on remand for offences as minor as shoplifting that almost never result in custodial sentences.

The Bail Amendment (Reducing Pre-trial Imprisonment of Women, Aboriginal, and Vulnerable Persons) Bill 2021 proposes to wind back the failed bail reforms of the last decade that have also caused exponential growth in the capital and operational costs of Victoria’s prison system,

considerable declines in prison performance, and rising reoffending rates for both children and adults, without any evidence that they have enhanced community safety.

Instead the bill will implement bail reform consistent with the recommendations of the Victorian Law Reform Commission that began in 2010, but was abandoned after Victoria's justice policy became politicised.

In doing so the bill proposes neither a tougher nor a weaker bail system, but a smarter system that will provide a simpler and more readily understood risk assessment framework for bail decisions to be made.

I turn now to the ...

Bill summary and structure

The guiding principles of the Bail Act state the act should have regard to maximising the safety of the community and the presumption of innocence and the right to liberty.

Put simply, this means a person charged with an offence must be presumed innocent and so not be detained in custody, but be released on bail until their trial, unless there is good reason to believe that they may pose a risk to public safety while on bail, in which case they should be held on remand.

The Bail Act recognises this by way of applying the unacceptable risk test to determine whether a person receives bail.

The unacceptable risk test means an accused will be granted bail unless a prosecutor can establish the accused is an unacceptable risk to public safety, interfering with witnesses, committing an offence, or failing to appear at their trial.

However, the Bail Act also contains additional tests for those accused of some offences, where the exceptional circumstances or show compelling reason tests may apply.

These are known as reverse onus tests, because they require that bail be refused unless an accused person can successfully argue they have an exceptional circumstance or a compelling reason for bail.

Recent bail reforms have focused not so much on raising the reverse onus threshold for bail for those charged with serious offences, but on expanding the total number of offences that require a reverse onus test.

It is a quantitative not a qualitative approach to determining bail that has led to far more people being held on remand irrespective of whether or not their imprisonment makes any sense.

In particular, repeat low-level offending, including minor breaches of bail conditions, which are most frequently the result of poverty, homelessness, poor mental health and family violence, is being uplifted into requiring a show compelling reason test, or exceptional circumstances test, the same threshold for bail as the most serious offences, such as murder, treason and serious sexual offences.

This has led to far greater numbers of vulnerable people, who in reality pose no threat to public safety, being unable to receive bail and so held in prison on remand for charges that are unlikely to result in a custodial sentence even if they are proven.

In practice, the very presence of social, cultural or economic disadvantage makes it more difficult for an accused to meet a reverse onus threshold in court, regardless of how minor their offending—for example, when an accused woman lacks access to stable housing because of family violence.

This expansion of the reverse onus tests to capture low-level offences explains why the incarceration of vulnerable groups such as women and Aboriginal Victorians has risen in recent years at a much higher rate than non-Aboriginal men.

Given that all accused always have to meet the unacceptable risk test for bail anyway, it is not logically apparent why the added complexity of reverse onus tests are required at all in regard to improving public safety.

This was the conclusion reached by the Victorian Law Reform Commission (VLRC) in the most comprehensive review of the Bail Act, released in 2007. The VLRC characterised the reverse onus tests as ‘illogical’ and recommended they be repealed in favour of a single unacceptable risk test, a system also favoured by most key legal stakeholders.

Repeal of the reverse onus tests

Therefore, the bill repeals the two reverse onus tests, the exceptional circumstances and show compelling reason tests, so that granting bail is based on a simplified and focused single test of unacceptable risk, consistent with the recommendation of the VLRC.

The unacceptable risk test will operate in the same way as currently under the act—that is, a bail decision maker must refuse bail for a person accused of any offence if the bail decision maker is satisfied that if the accused is released on bail there is an unacceptable risk they would: endanger the safety or welfare of any person; commit an offence; interfere with a witness or obstruct justice; or fail to surrender into custody.

The bill maintains that the evidentiary burden of proof must always be on the prosecution, consistent with our established system of criminal law.

A single unacceptable risk test will ensure that bail will not be denied, and a person remanded into custody, for the sole reason that an accused is unable to effectively present an argument for their release that may be due to or exacerbated because of factors inherent to their disadvantage, where such factors are irrelevant to the issue of unacceptable risk to public safety.

Additional surrounding circumstances to be considered in determining bail

The bill also expands the non-exhaustive list of factors in section 3AAA of the Bail Act, known as surrounding circumstances, that are to be considered by bail decision makers in the unacceptable risk test.

The bill adds consideration of whether the alleged offence is classified as a schedule 1 or a schedule 2 offence. This addition will provide bail decision makers with more guidance as to the seriousness of an accused’s offence when determining whether there is an unacceptable risk, because schedule 1 and 2 offences are considered as serious offences in the context of determining bail.

This will serve to provide a more logical means for bail decision makers to be reminded of the seriousness of an alleged offence, and by extension potentially applying a more rigorous approach to the question of bail than undertaking the current reverse onus tests for schedule 1 and 2 offences currently.

The bill also adds other additional factors that may be considered by bail decision makers in determining bail, including: any parental responsibilities the accused may have in relation to a child; the likelihood of a custodial sentence for the accused, should they be found guilty of the offence they are charged with; and consideration of any relevant human rights under the Victorian Charter of Human Rights and Responsibilities.

While the surrounding circumstances listed are a non-exhaustive list provided only as guidance to bail decisions makers, inclusion of these additional factors may provide bail decision makers with greater scope to ensure consideration of bail does not occur in isolation from the context of the broader welfare of our society, including the long-term criminogenic and intergenerational effects of unnecessary pre-trial detention for low-level offences.

The bill also contains other technical amendments to provisions in the Bail Act relating to where a terrorism risk is alleged, when only a court can determine bail, and when a court must record reasons for granting bail.

These amendments are required because the bill repeals the reverse onus tests, and they largely preserve the existing procedures in these circumstances, notwithstanding under the bill no reverse onus tests will occur, and the burden of proof will always remain with the prosecution.

Conclusion

As a direct result of recent changes to bail laws, the disproportionate incarceration of Aboriginal Victorians over the past decade has accelerated to the highest levels in recorded history and moved the state even further away from its stated goal of ending justice disadvantage for Aboriginal Victorians compared to non-Aboriginal Victorians.

Higher rates of Aboriginal Victorians held on remand without cause further compounds the loss of culture, family and purpose for a growing number of Aboriginal people, entrenching their social and economic disadvantage, and their chances of dying in custody, throughout their lifetimes.

Stopping this trend requires reforms to the Bail Act as a priority.

There can be no more excuses or distractions. This is what the Victorian Aboriginal Legal Service continues to tell us. In fact, it is what the royal commission recommended some 30 years ago.

But it is not only this, Victoria's prison system currently holds significantly higher proportions of women and children unsentenced and in pretrial detention on remand, compared to the general prison population.

This, despite the fact that these groups are also less likely to be charged with serious offences, and more likely to eventually be released from custody on time served, or a non-custodial sentence.

We have repurposed the prison system as a temporary dumping ground for the most socially disadvantaged, criminalising their disadvantage and poverty rather than connecting them with less expensive and more effective health and social programs that will actually address their low-level criminal offending.

Already billions of dollars have been wasted in Victoria expanding prisons so low-level offenders can cycle through the system for short periods on remand, money that instead should have been spent on housing, hospitals, mental health support and education.

Of course, this also means our prison system can't actually do what it is designed to do—that is, holding the most serious offenders and seeking to rehabilitate those who are to be released so they don't reoffend.

It is no coincidence that reoffending rates have continued to rise at the same time as the recent bail reforms.

I have been encouraged hearing some comments from all sides of politics that justice policy simply can't continue on this failing trajectory.

Because ultimately, it doesn't matter if you are more concerned about the fiscal implications, the discrimination, the reoffending rate, or human rights in supporting bail reform. Evidence-based justice policy requires multi-partisan support.

Therefore, as I said when I introduced the bill to raise the age of criminal responsibility, the question is not if these reforms get implemented, but when.

MOTIONS

3208

Legislative Council

Wednesday, 15 September 2021

The COVID pandemic has meant that we have an opportunity to lock in some of the reduced imprisonment of women and Aboriginal Victorians, to permanently redirect these people to housing and social support.

Or we can wait until there is even more money wasted, more reoffending and victims, more communities destroyed, and more preventable Aboriginal deaths on remand, and then make these changes.

The Greens have introduced this bill today because we must not wait.

I commend this bill to the house.

Ms TAYLOR (Southern Metropolitan) (09:26): I move:

That debate on this bill be adjourned for two weeks.

Motion agreed to and debate adjourned for two weeks.

Motions

HORSERACING

Mr MEDDICK (Western Victoria) (09:26): I move:

That this house:

- (1) acknowledges:
 - (a) that members in this house and in the community condemn animal cruelty where it occurs;
 - (b) that horses in the racing industry deserve our care and respect;
- (2) notes:
 - (a) that surveys commissioned by Racing Victoria found that more than 87 per cent of respondents believe that there should be reform to the use of the whip;
 - (b) the public commentary from Racing Victoria that it supports reform to reduce the use of the whip;
 - (c) Racing Victoria's view that the whip remains critical for the safety of the horse and jockey; and
- (3) calls on state racing authorities to work with Racing Australia to develop a national approach to address community concern around the use of the whip.

I rise today to move my motion on the use of whips in horseracing. 'Gambling is the child of avarice, the brother of iniquity and the father of mischief', according to George Washington, and nothing has changed in the last 200 years. The most high profile and obvious victims of the gambling industry are racehorses—overbred, trained and raced to within an inch of their lives, and sometimes to their deaths, raced too young, raced too old, forced to jump hurdles over enormous distances, fed diets that ensure almost all of them suffer from gastric ulcers. And when their working life is finished, successful or not, the reward is a bullet before being served up as pet food—what the industry would call 'wastage'.

Today I want to focus on one particular cruelty in horseracing, arguably the most public display of animal cruelty in the country: whips. Horses are beaten on race days by whipping their flanks, pushing them beyond their limits in fear of the pain it causes. Make no mistake: no matter what the industry will say, it does cause pain. The *Catalyst* program on the ABC showed that to be the case in stark, horrifying detail. In fact horses' nerve endings, their pain receptors, are extraordinarily numerous and close to the surface of their skin at the very spot they are whipped. Horse skin is thinner than human skin and very sensitive to pain. Beating an animal is banned under the Prevention of Cruelty to Animals Act 1986 in this state. In any other setting the cruelty could rightly see someone punished, but in a perverse tug of the forelock to the powerful, enormously rich racing crowd, an exemption has been carved out.

I want to take a moment to call out another falsehood: that the whip is used sparingly. Current whip rules allow horses to be struck up to five times during a race up until the final 100 metres, where the

use of the whip is unlimited. I have watched time and again as jockeys lose their patience, let their anger come to the surface and whip their horses like their lives depend on it. Of course, jockeys who breach whipping rules get a second chance. Those who exceed five strikes during a race can have their fine overturned if they then abstained from whipping consecutively in the final 100 metres of that race. Whether they are overwhipped at the start, middle or end of a race, the outcome for horses is the same, and a paltry fine will not deter anyone.

In Australia's highest profile race, the Melbourne Cup, the whip rules are broken with abandon and horses brought here from their homes in other countries are also beaten without worry or concern. Jockeys have been fined for overwhipping in the last two Melbourne Cups. And why would they worry? The jockeys and the owners will not lose prize money if they win, and any potential fine is a drop in the ocean by comparison. So who cares if we belt the living daylights out of the old nag, eh? I do. So do an enormous number of people, huge now but growing ever larger, sick and tired of seeing horses whipped. A study in 2018 showed that at least three-quarters of surveyed Australians objected to the use of the whip. Eighty-seven per cent of surveyed racing punters said they would continue to participate if the rules were changed to ban the whip. They would stay.

The RSPCA is unequivocal in its support of a ban on the whip. It is also my position that we must ban the whip, as Norway did 35 years ago. Yes, Norway banned the whip in 1986, yet here we are in 2021 with no action—no action—on the whip, despite mounting public opposition. Since Norway banned the whip there have been no safety repercussions for jockeys—none—and far fewer serious injuries to horses. Hands-and-heels racing is now a fixture in the British racing calendar. Whip-free racing is the way forward if racing must continue.

My motion today does not go as far as I would like; but I know exactly the power, the might, of the industry that I am up against. So my motion tries to move them slowly but surely towards dropping this cruel rubbing of salt into the wound. I sincerely hope that you can all support this motion, that even those amongst you who are fans of horseracing can see that it is beyond time to ban the whip, that you can truly respect an animal that many of us hold such deep affection for, and if you are on the fence, I want you to imagine getting up close to one of those beautiful, magnificent animals, looking them in the eye, holding their gaze and then striking them as painfully hard as you can. Could you betray their trust? Because that is what is happening.

Racing Victoria declared national whip rules as inappropriate a year ago. Despite seeking national action on whip reform, they cannot go it alone. Rules in horseracing are governed by the national body, Racing Australia, so while Victoria may want to stop using the whip, pressure from other states makes it very difficult to bring reform. Racing New South Wales is one of the racing bodies least open to change, so my Animal Justice Party colleagues in the New South Wales Parliament will be calling for the same change in their state.

I make no secret of the fact that I am no fan of horseracing in any form. But I accept that it will be here for my lifetime, so on this issue I must remain practical. This is a change that would be a practical improvement in the quality of life for the thousands of racehorses in this state, and I hope you, my colleagues from all sides, will show compassion today and support this motion.

Ms SHING (Eastern Victoria) (09:33): It is always a challenge to follow Mr Meddick after contributions on subject matter which is very often very dear to my heart. I rise today feeling grateful for the opportunity to talk about this part of the industry which, as with so many incremental reforms that are geared toward animal welfare and better management of industries which are at least here for the time being, needs to evolve, and I want to really endorse and back in the comments that Mr Meddick has made in support of a move towards a ban on whips being used in racing not just in Victoria but also around Australia. I think Racing Australia has got a lot of work to do to make sure that it is keeping pace with other jurisdictions around the world. Mr Meddick has singled out Norway, but there are indeed a number of other countries where the phasing out of whips and indeed rules such

as those we have here in Victoria around the five strikes until 100 metres before the finish line and then unlimited opportunity for strikes thereafter have been in fact removed.

I am interested to see what the correlation is between that and a compromise to rider safety or indeed feelings of safety by jockeys. But having said that, I also note that jockeys, as a stock in trade, as a profession, are profoundly good at reading the language of their horses' bodies and of reading the temperaments of their horses' bodies such that they are in so many instances, because of their skill and experience, able to preserve their own safety in a pre-emptive and proactive way simply because of the inherently close partnership and trust which exists between horse and rider.

Another point to raise is around the economic viability of the horseracing industry as it relates to punters being very prepared to continue to support the industry where a phase-out of whips occurs in competitive horseracing. To that end I note that it will then be perhaps a benefit for the brand of horseracing to be able to say that in addition to the other animal welfare initiatives, which have been taken and have been adopted with great enthusiasm from not just those in the industry but horse lovers and people who participate in everything from picnic races to off the track, we will in fact be able to see a very real and ongoing commitment to equine welfare across the state.

When we look at the use of animals and livestock in entertainment activities and indeed for our own use and sustenance, we have come a long way. We have come a long way in every area, from sow stalls through to the change to free-range egg definitions. I always like to think that I can buy eggs at 1500 chickens per hectare rather than up to 10 000, but we are making progress. That is one example of how far we have come in understanding that there are significant economic benefits and there are significant benefits in reflecting social licence to be better and to do better by animals, who are part and parcel of our economic growth, development and prosperity, along with the jobs that they create and sustain across Victoria.

I commend Racing Victoria for the work that it has done in being vocal around the need to phase out the use of whips. I note Mr Meddick's comment around the all-powerful nature of competition when it comes to elite racing, when it comes to the Cox Plate, the Melbourne Cup and indeed other elite competition races that are streamed around the world to great acclaim. In those races we see whips used with absolute abandon. This is something that I think we need to be better at calling out, I think we need to be better at regulating and I think we need to be more cognisant of in the context of encouraging good practice by owners, by trainees, by jockeys and by the industry and of recognising and rewarding those people within the industry who are doing the right thing. It should not amount to a practical disadvantage for those who place equine welfare at the very top of their list of priorities when faced with a competitor who is prepared to break the rules, prepared to engage in unlimited strikes and prepared to strike, for example, above the shoulder in breach of the rules or in the vicinity of a horse's head simply to win a race.

I am a big fan of positive encouragement for people in the racing industry to do the right thing, and I have spoken about this many times not just in relation to horseracing but in relation to greyhounds and the greyhound racing industry. There are many people who have very different views about how to advance change in the primacy of animal welfare across these industries. My view has always been that it is within our capacity to encourage people from within the industry to do better and indeed to show the way around best practice being the preferred way to overhaul industries from within, and from within the tent in fact, to effect positive change.

We know that where animals are encouraged through connection, through trust, through effective training and through strong, deep connections with their riders and trainers they do well as much out of a desire to please as anything else and that the adrenaline associated with a racing environment will in fact be sufficient to encourage a horse to do its best. Animals, where they have a close connection to people within the industries that rely upon them, are in a competitive sense hardwired to please.

These are the sorts of areas which I think warrant further work from Racing Victoria and Racing Australia to make sure that as we take these steps in partnership with Racing Victoria in calling Racing Australia to adopt the models that have been implemented overseas, which have not caused economic harm or damage and which have in fact enabled punters to feel more comfortable about having a flutter, we see in fact that there are significant benefits for the animals involved. There is a significant benefit for the reputation of the industry, an industry which already does a lot—it has a further way to go, but it already does a lot to minimise what Mr Meddick has referred to as wastage. I am not going to shy away from that term, because animals are viewed as commodities in these particular industries and it is important that that language is used in the sense that the industry wants it to be used, rather than in fact evoking emotive images and metaphors about horses going off to live on a farm—or greyhounds or indeed any other racing breed, for that matter. That is ‘farm’ in inverted commas, and you can never go to visit the farm, because it does not in fact exist.

We need to have an ongoing discussion, though, about recognising best practice, about encouraging the industry to continue to do better and about encouraging people to be involved and to vote with their feet on the horses, the riders, the trainers and the consortia within the industry that do do the right thing, that are positive role models for better practice and that indeed are showing a new generation of jockeys, trainers, strappers and others how to get the best from a horse without resorting to violence.

So I think Mr Meddick’s motion is a good one. I think the collaboration which Mr Meddick has undertaken not just with his stakeholders and constituents but also with the Minister for Racing and indeed the industry through Minister Pakula in the other place has been profound, and I think that work really needs to continue. I look forward to seeing the progress of discussions with Racing Australia. I look forward to seeing those discussions bear fruit in a way that makes a significant difference to the welfare of horses. I look forward to seeing more research being undertaken around this persistent notion that indeed whips are required for jockey safety, which is not necessarily demonstrated to have been the case in other jurisdictions.

But, again, for an evidence-based approach to policy reform and indeed to change, we as governments and as parliaments need to be receptive to the idea of different views from different stakeholders in different jurisdictions in order to do the right thing, and this is in order to not just do the right thing by the industry—an industry which, as Mr Meddick has indicated, is here to stay—but then reflect on the social licence which has been diminished to the point of disappearing in fact around the use of whips, where 87 per cent of people surveyed, as referred to by Mr Meddick, are supportive of a phase-out of whip use, and also make sure that we are reflecting modern standards in how far we have come on animal welfare matters and how far we have to go and creating the mechanisms and putting the frameworks in place in order to achieve those ends and that progress over time. I thank Mr Meddick for bringing this motion to the house. As always, his passion is at the forefront of everything he does, and he is to be commended.

Mr ONDARCHIE (Northern Metropolitan) (09:44): I rise also to speak to Mr Meddick’s motion 619 today around the racing industry and around the use of whips and to acknowledge the contribution that the racing industry makes to the economic value of our state, a very dynamic industry that supports over 70 000 jobs in this state and contributes over \$2 billion to the Victorian economy, more than half of which is generated in country Victoria. It supports not just horseracing, as we see. It supports the fashion industry, the food and beverage industry, travel and tourism—and a whole range of other industries that bolt on the end of our great sport.

I was introduced to horseracing as a very young boy. I was a very young boy when I joined my father at racetracks and had the experience of watching some great battles over time—some great battles, including the 1986 Cox Plate, that battle between Bonecrusher and Our Waverley Star. What a wonderful day that was—what a wonderful day. And in 1982 when Bill Collins called out just before the turn that Kingston Town could not win the Cox Plate and of course the great horse went on to win its third Cox Plate. I am particularly fond of the George Hanlon-trained Family of Man, ridden by Brent Thomson in 1977, and members know that I have a personal connection to that win that day. I

love this sport. I think it is a great sport. I think of things like when Might and Power, after winning the 1997 Caulfield Cup and the 1997 Melbourne Cup, went on to win the triple and won the Cox Plate in 1998. And of course who can ever forget the queen of the turf, Winx, winning its fourth Cox Plate or when, I recall, in 2016 they said it could never beat Hartnell—and it did.

This racing industry is significantly important to the economic value of Victoria, so I take up Mr Meddick's motion today that asks for a number of things. It asks the house to note public commentary from Racing Victoria that it supports the reform to reduce the use of the whip—I note that in Mr Meddick's motion. I note that it calls on state racing authorities to work with Racing Australia to develop a national approach, and I think that is a wise thing to do. I think at some point Mr Meddick strayed a little bit from his own motion this morning to talk of things outside the motion, but we have come to expect that of Mr Meddick.

Let me say to you that the national reform of whip use is a good thing, recognising that whips are very, very important for the safety of jockeys and horses. And I say as I said at the outset, through you, Chair, to Mr Meddick, I love the horses and I want to see no harm come to the horses. But the whip is a very important element of the safety of both the jockey and the horse and—dare I say, after witnessing some things on track myself—of the patrons as well. It is a very important element. I think over time there have been changes to the way that we view the use of the whip. I think there have been times, over a long period of time, when we have come to recognise that very important partnership of the trainer, the jockey and the horse itself, particularly when you see them in the mounting yard and as they make their way to the barrier and indeed as they return to the judge. That very passionate link between the jockey and the horse, a link that sometimes is hard to explain, that connection between horse and jockey, is one that we should recognise today through Mr Meddick's motion.

I note in Mr Meddick's notion he talks about animal cruelty, and I do not think there would be a person in this house that would not be opposed to cruelty to animals. I do not think there would be. I just reflect on my own house, where we have a guide dog who lives with us—a guide dog who has been here to the Parliament—and the wonderful work that she does and other guide dogs do and other assistance dogs do to support people in the community. No-one would ever want to see cruelty to animals.

Mr Meddick's motion also moves that this house acknowledge that horses in the racing industry deserve our care and respect, and, Mr Meddick, generally speaking they do. There are elements in all levels of industry that sometimes we shake our head at, and we have seen that in other industries as well, like the greyhound industry. We have seen some things we shake our head at and think that there could be some reforms. So in a sense, I say to Mr Meddick, it is important that the state racing authorities get together with Racing Australia and develop a national approach to this—a national approach to how we use whips as that element of safety for jockeys, horses and patrons.

I say to Mr Meddick that this motion seems to indicate, through Mr Meddick's contribution this morning, that he is looking to do something more than what this motion actually says, and that is interesting. Because one would say to Mr Meddick, if that is what you thought, then you should have put that up. That is what you should have said, Mr Meddick—exactly what you felt. But this motion actually supports a view that the authorities should get together, that the industry should get together, and we should have a discussion on the use of whips and the respect for horses. That is what the motion says, so any straying from this motion by Mr Meddick is either inappropriate or there is a hidden agenda here. I would like him to tell us what it is at some point, but I suspect we know.

Mr Meddick, I say to you that the respect that you are indicating this house should give to horses and that the guidance that Racing Victoria is providing in a national agenda about the use of whips is something that should be supported. If that is the element of your motion today, then we should do that. But I think you were talking about other things in your contribution today. I think you were talking about an agenda that is much wider than what you have put forward today, and I suggest to you that if that is really what you meant then you should have said so.

I say to you, President, that the Liberal-Nationals coalition support a review of the use of whips. We support a national code for the use of whips. We do acknowledge and recognise and very clearly make the point that there is an inextricable link between jockey and horse and the safe use of whips—no doubt in my mind. And having lived—not physically—a lot of my life on the racetrack, I see it. I see it a lot. I see the care and the love by trainers, by strappers, by workers, by staff, by jockeys and by owners for those beautiful horses. And of course those who take the folding stuff out of their pocket, on the racetrack or electronically, love the horses—love them, respect them, cheer. I stood at Moonee Valley Racecourse when Winx passed the judge for the fourth time in the Cox Plate, and the crowd roared—roared and roared—and applauded the great horse when it returned to scale. They applauded it. There was so much love on that racetrack that day for the horses that you could not argue that Victorians and Australians love racing and love their racehorses.

We give ultimate respect to those horses. We treat them and those who surround the horses—the jockeys, the trainers, the owners, the strappers, all those associated—with our utmost respect. So we concur with a view that there should be a national code. We concur with Racing Victoria's commentary around reducing the use of the whip. But we absolutely—absolutely—make the point that the whip is a very important element in the safety of jockeys, the safety of racehorses, the safety of patrons.

Dr KIEU (South Eastern Metropolitan) (09:52): I want to speak to the motion by Mr Meddick on the use of whips in the racing of thoroughbred horses in Victoria. The racing and gaming industry has been an integral part of the economy of our state and indeed of Australia and indeed is part of the Australian psyche and entertainment. At the end of October this year, for one week, we will have the greatest thoroughbred horserace in Australia—namely, the Melbourne Cup—if not one of the world's greatest. There is no decision yet on whether it can be held, because of the pandemic, so I would like to take a digression and encourage people to take up the vaccination as soon and as much as possible so we can enjoy a more normal life.

Our government, the Victorian government, is committed to ensuring that all racehorses are treated with care and respect. We expect the Victorian racing industry to put animal welfare at the forefront of everything it does, and we do in fact condemn any act of animal cruelty. But ultimately the decision relating to the use of whips in horseracing is within the responsibilities of Racing Victoria and Racing Australia.

In September last year, 2020, Racing Victoria announced it would seek to propose national action on whip reform to Racing Australia and also to the principal racing authorities at the next meeting, because it confirmed that the rules at present were not fit for purpose. Racing Victoria's public position is that riders should be permitted to use the whip not more than a maximum of five or eight times and not in consecutive strides. In order to reach the ultimate position of not using whips in races, Racing Victoria hope that the proposed reform will be taken up and considered at the next meeting of the principal racing authorities.

In the few minutes I have left I would like to say that our government, the Andrews Labor government, supports the leadership shown by Racing Victoria through their advocacy on the use of whips in racing and supports this motion, but ultimately further reforms should be coordinated at the national level. We are looking forward to the outcomes of that meeting.

Ms PATTEN (Northern Metropolitan) (09:56): I rise to speak briefly on this motion. I was just reminded of how beautiful horses are and how wonderful it is to see them run. I was reminded because across the river from our property is one of those places that Ms Shing spoke about, a place where retired horses actually do go. Watching them race up the hill in the morning, racing against each other—it was such a natural state of being, and it was so beautiful.

So we know that these horses love to run, and it is a natural state of being. So why do we need a whip? Why do we need horse tongue-ties? I note that in 2018 Reason—our party and me—spoke at length

about the use of tongue-ties. That was back in 2018. We know that a tongue-tie is a strap that immobilises a horse's tongue, attaching it to the lower jaw, and is believed to prevent airway obstruction while racing, although there is not a lot of science around that. In fact there is now a pilot going on around not using ties in the racing industry. We have seen things like nylon ties be prohibited in the racing industry. I think right now we are actually probably seeing the end of the use of ties in the racing industry in Australia; that is good, because they are cruel.

Now, whipping a horse—whipping any animal, anything—is illegal in most circumstances, except for this small exception to that rule—that is, that a jockey in a thoroughbred race can strike the horse up to five times during the race and pretty much every second stride in that last 100 metres. Jockeys have been fined for overwhipping, many times. In fact in the last two Melbourne Cups jockeys were fined for overwhipping. Now, I do not think those fines really stopped the celebrations. I do not think those fines really dug in very deep into the prize money that they had received or the earnings that the owners of those horses had received. So, as a rule, those fines do not really act as a deterrent.

In 2020 Racing Victoria conceded that the current whipping rules were not really appropriate and that we needed reform. So I think Mr Meddick's motion here actually has extraordinarily widespread support. In fact it is hard to find people who do not seem to agree with it. In fact in Victoria they attempted to trial whip-free racing. And one assumes, if those horses love racing as much as they do, and they love running as much as I could see they do across the river from my place, they would not need a whip to continue racing. If nobody used whips, if it were only hands and feet in the race, it would be a level playing field—a level racing field, as it were. It seems anachronistic in the 21st century that we provide an exception to whip an animal. If we saw someone whipping an animal in our streets, we would be outraged. If we saw an animal being whipped on a farm, we would be outraged. Yet we have this exemption for thoroughbred horseracing.

Now, we know that the community is behind us, and that includes the punters—they do not want to see a whip. I think Mr Meddick's motion is a very modest motion. It is saying, 'Let's renew this conversation about the use of whips; let's trial something different'. And it seems Racing Victoria is behind this, the community is behind this and I would probably say that even the vast majority of the industry is behind this. We are in a very different time than when thoroughbred racing first started. We have seen the gradual removal of whip usage, we have seen the gradual decline of it, and we have seen the regulations be strengthened. I think Mr Meddick is on the right course. I think he has got the RSPCA behind him and he has got the community behind him. I would hope to see not only Racing Victoria but Racing Australia get behind this. I would be interested to hear jockeys getting behind this as well, because they talk about jockey safety, and I have never been a jockey, but I do not understand how that whip that they suggest does not hurt the animal, that they suggest is not painful at all, actually keeps them safe, particularly when we are really talking about the limit of it to the last 100 metres of a race.

I wish Mr Meddick well in this. I think, as I say, it is a very modest motion. And we know where the Animal Justice Party stands on racing; there has been no secret about that. But I think when you are in this place it is about not letting the perfect get in the way of the good, and I think this is one of those motions that does that.

Mrs McARTHUR (Western Victoria) (10:02): Well, if we look at most of this motion, we would really consider it motherhood statements, actually. Who could possibly oppose condemning animal cruelty? Who could oppose that horses in the racing industry deserve our care and respect? Mr Meddick has referred to a survey. I did a course once, the main title of which was 'How to lie with statistics'. We do not actually know how many people were involved in that survey where it was found that 87 per cent felt there should be a reform of the whip. But putting that aside, we support the fact that Racing Victoria has reviewed and is reviewing the use of the whip and the development of a national approach to address community concerns. They are all inconsequential issues really that we can all buy into.

But we all know that this is not the real agenda, and Mr Meddick has referred to the real agenda. I mean, he said that his position is that we must ban the whip as in Norway, and he admitted this motion does not go as far as he would like. He added that it is only a matter of time before the whip is banned, and he also said that while Victoria might be leading the way in banning the whip, the other states are less enthusiastic. But he did refer to his real agenda on this matter, which is to ban horseracing altogether. So we have got the watered-down version of Mr Meddick's real agenda, and we should all be well aware of what that real agenda is.

It is the case that the use of the whip has been changed, and we support that. You would assume that the whip is used to make the horse gallop faster, Ms Patten—they do not usually run; they gallop. And we do not usually use hands and feet, we use hands and heels. I just want to get your racing vernacular on track, as a horserider. You indicated that you like watching them—perhaps not being on them. But those of us who have ridden horses all our lives love the animals. We care about them. There are a lot of slow ones around our paddocks. There is even a famous one, Chicquita, buried on our property. I know what we have to do to ensure their longevity with the care that is needed. So, really, the vast majority—the very vast majority—of people involved in the horse industry love the animals. They would not be in it if they did not.

In Mr Meddick's and my electorate there are 20 racing clubs, so the banning of horseracing, which is what Mr Meddick's real agenda is, would have a massive consequence economically to these communities. Not only is it of economic benefit but it does give people a day out. Sometimes these clubs only have one race meeting a year. It is a very big community event.

Mr Finn: What would happen to all those horses, I wonder.

Mrs McARTHUR: Well, exactly. I do not think there are enough refuges in Mr Meddick's world that could house them all if they had to be taken off the track.

We know that the contribution to the economy in our area, especially around Geelong, Ballarat, Warrnambool and the south-west alone, comes to \$260 million from the thoroughbred racing industry, and it is 11 000 jobs. So if we end the racing industry, which is the real agenda here, we would put paid to all those people involved in the racing industry and all those communities that also enjoy it and depend on it. He would have them all shut down; there is no doubt about that. In the state the direct contribution to the economy is \$1.4 billion. The indirect contribution is \$2.9 billion. That is a total of \$4.3 billion. The direct jobs in the industry are 15 415 and the indirect 18 411, a total of over 33 000 jobs in this industry. That is significant, especially at a time when we are talking about creating jobs and keeping people in work, especially in rural areas. These are very specialist jobs, and the people involved in them love the work they do and are very pleased to be involved. And how good is the racing industry? It has actually managed to keep going, as far as I know, without one COVID case for this entire pandemic. Maybe they should be running the whole management of the pandemic, because they seem to have worked out how to do it quite safely.

Mr Finn: Put them in charge of the health department.

Mrs McARTHUR: Yes, put them in charge of the health department—very good idea.

Mr Finn: They'd do a better job than the minister.

Mrs McARTHUR: Well, the contact tracing at the moment is appalling, so maybe the racing industry could take that over too. There are regulatory protocols already involved, and we see on regular occasions the trainers and jockeys being called out for inappropriate behaviour. We see trainers banned; their whole livelihood is gone. Fair enough. If they do the wrong thing, they are called out and prosecuted and their involvement in the industry is ended.

We know that Mr Meddick is really on about banning racing; it is not only banning the whip, it is banning racing. We imagine that if you want to ban the whip in horseracing you probably want to ban it in every other form of equestrian activity as well. This is the short edge of the wedge and just the

beginning of the downhill slide to an end to racing, which does create a lot of joy, a lot of value, for many people and is a very important part of Victoria's activity and history.

So, Mr Meddick, it is hard not to support the motherhood statements in this motion, but I am sure they are actually not what you really originally intended to do here. But we have to vote on the sort of words that you have put up, even though that is not the intent—you have not spoken really to the motion, you have spoken to what the real agenda is—and we know that, and so there we are.

Dr RATNAM (Northern Metropolitan) (10:10): I welcome the opportunity to speak to Mr Meddick's motion today, and at the outset I would like to state what the Greens position is: that the continued use of the whip in horseracing is cruel and should be phased out as soon as possible. I agree with what Mr Meddick said in his contribution—that the use of the whip is cruel and painful for horses; it no longer has the support of the community; and there is a growing body of research that suggests that the old industry arguments for whipping, that it is necessary for safety and control, are not based on any evidence.

Last year a study by researchers at the University of South Australia found absolutely no evidence that whips used in horseracing benefit the jockey in any way, not in speed, safety or interference. It found that the racing industry's position—that the whip is a necessary part of horseracing—is not backed up by any evidence. So if whips are not needed for safety, for control or even for speed, then whips are being used to inflict pain on horses for absolutely no reason. We also know that horses feel similar pain when whipped as humans do, that whips frequently leave clear indentations on the body of the horse and that the unpadded, more painful part of the whip ends up being the part that makes contact with the horse.

A Senate committee recommended banning whipping in horseracing 30 years ago, stating that it could not condone the use of the whip to inflict pain on a horse, but 30 years later we are still hearing arguments about the need to wait for a national consensus on the issue. It seems clear that if the consensus has not been reached in the last 30 years, it is unlikely to be reached now, especially among an industry that is even better and more powerful than before.

So while I support this motion, what I am really perplexed about is why the obvious conclusion here, that whipping should be banned entirely, is not being advocated for. Without it, we have what appears to be a total concession to the racing industry which puts the decision on the future of whips in racing back into their hands, when we know very well that the industry cannot be trusted to do the right thing here. This is an industry that has used its influence over the government to get special treatment on funding, on taxation, on special events—even on lockdown rules. It is an industry whose existence is tied to gambling and the pain and distress gambling causes across our community, and in New South Wales it is an industry that forced the government to backflip on what was one of the most significant reforms for animals in decades—an end to greyhound racing in that state. It is hard to see how the industry would agree to ban whips on their own, and this motion even makes a point of noting Racing Victoria's view on the issue—that the whip remains critical for the safety of the horse and jockey. The racing industry also argues whipping is necessary to properly control the horse. I would have much preferred Mr Meddick's motion in point (2)(c) to begin with, 'It rejects the assertion of the industry', and then the remainder of the sentence.

I do not understand why we have to wait for everyone else in the country to get it together before we take action. Victoria has gone it alone on plenty of progressive reforms before. We were the first state to pass voluntary assisted dying legislation, for example, and to ban puppy farms. I see no reason why we cannot do the same with banning whipping. It would demonstrate a commitment to ending animal cruelty in our state and a willingness finally to take a stand against a predatory and harmful industry. We could even begin to have the hard conversations about whether the entire racing industry still has a role to play in modern Victoria. Compromise is often necessary in governing, and it is something we reach in this chamber frequently, when the crossbench and opposition push the government to amend flawed legislation or to back down from poor policy. But if the fight begins with a compromise, there

is nowhere to go except even further away from your goal. So I remain perplexed about why this motion has not made the hard call and has not asked this government to commit to the banning of the whip in Victorian racing. Instead it asks us to call on state racing bodies to work with Racing Australia to develop a national approach to address community concern.

The Greens will keep pushing back on the vested interests in industries that exist only on the back of animal cruelty, like racing and gambling, and we will continue campaigning for the government to bring an end to animal cruelty in our state. While I support this motion and thank Mr Meddick for his advocacy on these issues, there are a number of issues with the motion that have been canvassed by all sides in this chamber in this debate today. We have heard the opposition saying that their interpretation of the motion is that it condones the continued use of the whip, we have heard members of the government also indicate their interpretation of the motion is that it condones the continued use of the whip in some regulated form and we have heard Mr Meddick in his contribution argue that this motion is a move to try and reduce the use of the whip. I would much rather this motion said that we should ban the whip once and for all, and I urge Mr Meddick in his conclusion to clarify the intention of this motion, given that it has been open to such different interpretation by this chamber and it seems to be being supported for very, very different reasons. So I hope that that clarification will come. But given Mr Meddick's initial contribution about needing to reduce the use of the whip—the Greens want to see the whip banned—we will support this motion.

The DEPUTY PRESIDENT: Ring the bells. We need a speaker, and there are two speakers left, Mr Hayes and Mr Quilty.

Bells rung.

The DEPUTY PRESIDENT: I call Mr Quilty. Is Mr Quilty speaking? His name is on the list. The problem we have here is there were three members of the crossbench left to speak: Mr Grimley, Mr Hayes and Mr Quilty. I texted Mr Grimley, who came back and said he was not going to speak. I sent a text to Mr Hayes, who after we had rung the bells came back and told Mr Meddick he was not going to speak. Mr Quilty came in during the bells but has now said he is not going to speak. We have wasted 4 minutes now of this debate for people who were not going to speak. If you are not going to speak, please do not put your name on the list, or have it removed, because it will save us ringing the bells.

Mr BARTON (Eastern Metropolitan)

Incorporated pursuant to order of Council of 7 September:

I rise to speak on motion 619 regarding the use of whips in horseracing.

I will be supporting this motion today.

Racing Victoria's chief executive, Giles Thompson, has said, and I quote, 'It is Racing Victoria's view that progress on whip reform is needed now'.

I think this is a conversation that should be able to continue at a national level to ensure that the sport aligns with community expectations.

At this time, national consensus has not been reached on any reform to the use of the whip. This is something we should be working towards.

This is a decision for Racing Australia to make and it has to be uniform across the country.

I support the furthering of the conversation around this issue and I look forward to seeing what comes from it.

It is vital to the industry that Australian racing retains its existing audiences and attracts new fans and employees.

There are many different perspectives and I believe it is always important that there is consultation with those in the industry and efforts to reach some form of agreement on new regulations.

I commend this motion to the house.

Mr MEDDICK (Western Victoria) (10:21): I will not take long in summing up. I just want to thank all of those who have spoken in favour of the motion and also those who have spoken against it. I appreciate that. This chamber is nothing if not a great sounding-board for ideas. I just want to in particular thank Mrs McArthur, who in her speech underlined—in fact made a point of telling everybody—just how much overbreeding takes place, that there would be nowhere for all these horses to go at the end of their careers, underlining the point that they end up in a can of pet food. So I appreciate her pointing out that fact in her speech.

To sum up—as I said, I will not take too long—there are two final points I would just like to make, one of which is to address how things actually work in the rules of racing for some in the chamber who might not be aware. Victoria does not run its own rules of racing. Neither does New South Wales; neither does anybody else. The entire country is run by Racing Australia. That is where the rules lie. Each state, if they would like to change a rule, must take it to the national body, and a vote is then taken and they must get consensus for that to change. Victoria has 35 per cent of the vote, as does New South Wales, so if you do not get those two states, you do not win. If Victoria tried to go it alone, it just would not happen. It cannot happen under the rules of racing run by Racing Australia. So that is the explanation as to why we cannot go it alone.

The last point I would like to make is, as I pointed out and others have pointed out here, just how enormously wealthy the racing industry is—how much money it makes, how much it generates, all those sorts of things. And I understand that; I am not immune to that. But there is one maxim that we should stick to: no amount of money—none—can justify the continuation of a cruel practice.

Motion agreed to.

The DEPUTY PRESIDENT: I call Mr Davis. Ring the bells, because the next speaker is not here. Mr Davis, you are needed in the house, please.

Bells rung.

Production of documents

FIRE SERVICES WORKPLACE SAFETY

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (10:25): I move:

That this house:

(1) notes the:

- (a) failure of the government to comply with the resolution of the Council of 5 May 2021 requiring the Leader of the Government to table in the Council the Victorian Equal Opportunity and Human Rights Commission's (VEOHRC) review into the nature, prevalence, drivers and impacts of discrimination, sexual harassment and victimisation in the Country Fire Authority and Metropolitan Fire Brigade;
 - (b) Attorney-General's letter of 19 May 2021 in response to the order to produce these documents that stated that the government does not hold a copy of the review and that the VEOHRC advised that it cannot provide a copy of the review to the government due to orders made by the Court of Appeal on 4 October 2018;
 - (c) ruling made by the President on 4 May 2021, upholding a point of order highlighting that the government had claimed executive privilege over certain documents but had failed to produce them pursuant to the terms of standing order 11.03;
- (2) further notes that, if the resolution of the Council is not complied with, the Council reserves its right to find the Leader of the Government guilty of a contempt of the Council and this may result in a formal motion of censure of the Leader of the Government;
 - (3) further notes the accepted practice in the New South Wales Legislative Council that, if documents are legally in the custody and control of an agency rather than a minister, the agency is required to comply with an order to produce those documents to the house;

- (4) further notes the legal opinion tabled in the New South Wales Legislative Council on 18 November 2015 by Mr Bret Walker, SC, reiterating the right of Australian state houses of Parliament to demand documents from all government agencies, directly if necessary, consistent with their ancient privileges and powers;
- (5) requires:
 - (a) the commissioner and the executive director of the VEOHRC to provide the documents outlined in paragraph (1)(a) to the Clerk for tabling in the house within 14 calendar days following the adoption of this resolution;
 - (b) requires the Leader of the Government to table within 21 calendar days following the adoption of this resolution all documents outlined in paragraph (1)(a);
- (6) authorises the Clerk to communicate this order to the commissioner and the executive director of the VEOHRC and table any documents received from the VEOHRC under paragraph (5)(a) in accordance with standing order 11.02; and
- (7) further notes that standing order 11.03 provides a mechanism whereby documents that the government agency or individual is of the view should not be released can be subject to the ruling of an independent legal arbiter.

This motion follows directly from the earlier motion in the chamber that was carried by the chamber which sought to provide those CFA documents and the report which was commissioned by the previous minister, a member of this place, and relates to the very serious allegations and circumstances in a number of these fire services. It is clearly in the public interest for these documents to be in the public domain. It is clearly something that should not be covered up in this way.

If we take at face value the Leader of the Government's view or opinion that she cannot get these documents and that VEOHRC will not hand them over to her, we can rely on the material from New South Wales and the process that has been adopted regularly in New South Wales, including with greyhound boards and others. And I think the Bret Walker opinion from 2015 is a definitive opinion. It makes it very clear that those documents can be obtained by the chamber. It makes it very clear that the powers of the chamber are such that they can demand the documents.

We think that it is entirely reasonable to rely on the precedent from New South Wales. We think it is entirely reasonable that the documents should be provided to the chamber in that way. Accepting that the Leader of the Government has not got the documents, we now know where the documents are. The precedent comes directly from the ancient powers of the chamber but has been tested in the High Court in *Egan v. Willis*. Bret Walker was the counsel for that case, again relating to powers to obtain documents through orders and relating to the ability of the chamber, in fact, to discipline the then Treasurer, Michael Egan, in New South Wales. So it is very clear that the powers exist, very clear that there is precedent and very clear that the pre-eminent barrister in the land on these matters and powers, Bret Walker, has given a specific opinion to the New South Wales Legislative Council that its powers are such—and arguably the powers of the Victorian Parliament are actually slightly greater than those of the New South Wales Legislative Council—that those documents should be provided. It is in the public interest. It follows an earlier order of the Council where we made a decision to seek those documents, and we rely on those New South Wales precedents.

I think on a broader point, aside from the machinery and the documents aspects of this, it is in the public interest, and I do not think any of us want this to go on longer. These documents and this report—it is a very important report—should be in the public domain. We have seen recent serious matters come to the fore, and the community, I think, wants a better way forward with respect to the bullying, intimidation and unsatisfactory circumstances that appear to persist in our fire services.

Mr ERDOGAN (Southern Metropolitan) (10:31): It will come as no surprise that the government will be opposing this motion. On 5 May 2021 the Council ordered the Attorney-General to produce the Victorian Equal Opportunity and Human Rights Commission review into the nature, prevalence, drivers and impacts of discrimination, sexual harassment and victimisation in the Country Fire Authority and Metropolitan Fire Brigade, as was briefed to the government and the board of the MFB

in January 2018. In response to this order, on 19 May 2021 the Attorney-General tabled a letter noting that thorough and diligent searches have been conducted, the government did not possess a copy of the review and the commission had advised the Attorney-General that it could not provide a copy of the review to government because of orders made in *UFU v. VEOHRC* [2018] VSCA 252. The position stated previously by the Attorney-General, that the government does not have a copy of the review, has not changed, and the government is therefore still unable to provide to the Council or compel the commission to provide a copy of the review. I will add that the order made by the Court of Appeal stated that the commission are restrained from publishing any report arising from or in connection with the review.

This motion therefore creates a dangerous precedent that at any point the Parliament or indeed any party holding a majority of members in the Legislative Assembly that dislikes a decision of a court of Victoria can pass a motion that seeks to invalidate the decision of that court and seek whatever it wants. Such a move flies in the face of the fundamental legal principles of the separation of powers doctrine and seeks to encroach upon the independence of the court by declaring the Parliament as not only the maker but also the arbiter of the law. Moving to undermine this vital safeguard of democracy and the rule of law is not the outcome any member of this place should be seeking to enact, but that is exactly what this motion will do.

The motion should also be of deep concern to the many Victorians who every year seek the support of our courts and legal system to appropriately restrain the release of information for a range of reasons, including the safety and privacy of members of the community. It is deeply concerning that the opposition is seeking to engage the support of the crossbench in its endeavours to create a precedent that has the potential to undermine the reasonable and appropriate protections that our legal system affords all Victorians. I want to make that point: this is a dangerous precedent, because the decisions made in this term may also be reflected in future terms in this chamber.

The order by the Court of Appeal further states that the commission are restrained from continuing to conduct the review or from taking any further steps whatsoever in the conduct of the review. It should therefore be noted that the opposition is attempting to overrule the orders of the Supreme Court of Victoria to force the commission to provide documentation in relation to a review that the court determined it was not authorised to conduct and was restrained from completing and that is more than five years old now. It raises serious concerns in relation to any individuals who may have been identified in parts of the review that have been completed and who will not be afforded any rights to privacy or even procedural fairness in relation to documentation that will be at best incomplete.

I think it is also appropriate at this stage to reflect on what people in the profession or people with experience in jurisprudence are saying. To quote a former barrister and member of the Victorian Bar:

... our courts must be ... above partisan politics.

He goes on to say that:

... Victoria needs an independent judiciary now more than ever.

Mr Finn: Hear, hear!

Mr ERDOGAN: I agree: hear, hear! And who wrote these sage words? It was none other than Michael O'Brien, the member for Malvern in the other place and the former Leader of the Opposition. Mr O'Brien said that last night on his personal social media page. It was no surprise he was not right for the Liberal Party's leadership. He spoke up about the need for integrity and judicial independence, presumably stemming from the overreach of this Parliament, but was obviously asking for far too much from his party when he did so. I will leave it up to members here to decide whether or not he wrote those words with today's motion in mind.

But the level of contempt by the state opposition for the legal profession and our courts was on display for the whole Victorian community this weekend when I discovered that my learned friend

Mr O'Donohue, who had an esteemed legal career prior to entering this place, was to be replaced as Shadow Attorney-General with someone with no legal training whatsoever—a complete contempt for the profession and the courts. If the opposition actually cared about the nature, prevalence, drivers and impacts of discrimination, sexual harassment and victimisation in our emergency services, they would not be trying to play politics with an incomplete report from years ago. They should be joining the government in our endeavours, because as a government we have supported the implementation of Australia's first-ever royal commission into family violence. We have created the Gender Equality Act 2020 and the ministerial task force on workplace sexual harassment—and I look forward to its report, which is due later this year—which is developing reforms that will prevent and better respond to sexual harassment in workplaces across our state. The government is working with Victoria's emergency services and organisations, who are already implementing programs to improve culture and diversity within the sector and improve complaints handling processes within their organisations. This government takes combating discrimination of all forms very seriously and has implemented a whole host of laws and regulations to prevent discrimination and to promote positive and safe environments for everyone.

I ask that this motion be treated as nothing more than gross politics from an opposition that is playing to its base and from a Shadow Attorney-General that is not even a lawyer. I was actually pleased to hear that Mr Davis was referring to someone that was a Senior Counsel. At least there is someone with a legal mind on the opposition side, because they have clearly got rid of the people that had some legal grounding, being Mr O'Brien and Mr O'Donohue, my learned friends.

This motion before the house does raise issues that are of public importance, and I accept that. I accept that we should be talking more about workplace culture, about gender diversity and about cultural diversity. These are matters of the utmost public importance, but they are not matters that this motion seeks to explore. This is a political witch-hunt by the opposition, and it is disappointing that this matter keeps getting raised in this chamber and in the other place, in the Legislative Assembly, time and time again. It is relitigating the same issue. I think the legal precedent has been set. As I quoted earlier, the judgement in this matter was quite specific in that the Victorian Equal Opportunity and Human Rights Commission is restrained from publishing any report arising from or in connection with the review.

A motion such as this is clear. It says that at any moment, at any time, based on political whims, we will override the decision of the Victorian Court of Appeal if required—if we benefit from it. And it is the wrong signal. To reiterate Mr O'Brien's quote, we all know the importance of an independent judiciary, and that is why I think this kind of level of interference is unforeseen and not in the customs or traditions of the Westminster system. It is definitely out of place, and that is why I think it is a big step that this motion is asking for. It is a grave step. It is a step in the wrong direction for this chamber to be taking and a level of interference.

On the issues more broadly, of public interest, of diversity and of gender equality in workplaces, I think they are debates we need to have in this place. We should continue to have them. We should have them in our workplaces, we should have them in our families, we should have them with our friends and in our sporting clubs—because I think that is a broader societal issue that seeks to, I guess, rectify the historical injustices in place. It goes beyond gender equality. It goes into cultural diversity and other matters that the public does have an interest in.

I do not want to move too far away from the motion before this chamber, but I do want to remind members that I think the public does have an interest in these kinds of issues—because we have a state opposition leader whose record on, I guess, scapegoating certain minorities for political benefit is there for all to see. I do not want to re-enter or relitigate those issues at this point, but I think my point is clear on this motion. This motion flies in the face of a court order, a specific court order that is quite restrictive on the Victorian Equal Opportunity and Human Rights Commission, and we should respect in this place the decision of the court.

On that point, I hope that the crossbench is not convinced by these arguments being put forward by Mr Davis and the opposition, as they would undermine fundamental principles and doctrines of our legal system.

Ms PATTEN (Northern Metropolitan) (10:41): I am pleased to rise to speak to Mr Davis's motion 621. As Mr Davis quite eloquently put, this is a simple documents motion. It is simply suggesting, as the Bret Walker advice to the New South Wales Parliament stated, that this Parliament does have the ability to compel independent organisations or statutory organisations to provide documents to this Parliament. Under our Evidence Act 2008 and under our Parliamentary Committees Act 2003 we see this. In fact the Legal and Social Issues Committee has used that power a number of times in recent years to compel witnesses and documents to be brought forward to the committee as part of its inquiry process.

So, on the face of it, asking for a report or a review done by a statutory body such as the Victorian Equal Opportunity and Human Rights Commission would seem quite simple and it would seem that Mr Walker's advice supports that. However, there is one I think very substantial fact that has not been mentioned in the very motion that is on the paper or in Mr Davis's contribution earlier—that there is a court order on this review. And not just a court order; it is from the Court of Appeal. It is three judges ordering VEOHRC not to publish the review or the report. So we are now putting VEOHRC into an extremely difficult position, I would suggest. We are also, I would absolutely suggest, effectively overriding that order—or fighting or arguing to override the order of a Court of Appeal.

Now, Mr Davis says that we are entitled to do that—but does that make it right? And what sort of precedent does that set? Last week Mr O'Donohue and I put up amendments to limit the ability of the government of the day to expand suppression orders or victim privacy orders, and we were very concerned that this was giving the government too much power to make directions to the courts. We were specific about that, and Mr O'Donohue, on behalf of the Liberal Party, and I put up very similar amendments that successfully passed this house. Today we are being asked to overrule a court order, to overrule the Court of Appeal, to do this.

Mr Davis says we have every right to do that. I am yet to understand the public interest in doing that. I have great concerns about what sort of precedent this would set. Could a future government override a suppression order, override a victim privacy order, because they may suggest that it would be in the interests of the Parliament or in the interests of the government of the day for that information to be made public?

Now, this is a report that was done five years ago. If this motion was serious about achieving equality in our emergency services, well, that would have been an interesting motion to debate: how do we do that? I have a constituent; she is a terrific football player at Fitzroy, and she just got into the fire services. Just last week she was accepted in, and she is extremely excited about this, and I am very pleased to see that. But she will be in the minority. She will be sadly still just one of a handful of female firefighters, and I would support anything that changed that. But to overturn a Court of Appeal decision and put the very treasured institution VEOHRC in a position where they will be in contempt of court or contempt of Parliament—you choose. I choose not to put them in that position.

Today is the International Day of Democracy, and I certainly feel that one of the pillars of our democracy is that clear separation of powers. It is one of the pillars of our democracy, and I feel that this would be an absolutely egregious encroachment upon that separation.

Ms LOVELL (Northern Victoria) (10:47): I would like to start by congratulating Mr Davis on his motion and also on the work that he has done to uncover the precedent that provides for the release of the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) report. It amazes me that we are back here once again trying to secure the release of such an important report. Mr Erdogan said it is disappointing that we are back here debating this again. What I find disappointing is the

government's willingness to cover up abuse and sexual assault in a workplace. That is extremely disappointing. What we need is for this report to be actually released.

This debate and this report are not about establishing whether this behaviour exists in our fire services. The fact that it does exist has been very well documented, and that is why the VEOHRC review was commissioned in the first place. This is a review that was commissioned by this government but has never been released due to the objections of the United Firefighters Union. There is an old saying that you have nothing to fear unless you are guilty or you have something to hide, and it seems that there are only two bodies with an interest in blocking the release of this report—the UFU and the Andrews Labor government.

When the then minister, Jane Garrett, commissioned this review, the fire services welcomed it. They knew then that there was a problem, and they were willing to face it in order to fix it. Volunteer Fire Brigades Victoria, the representative of the volunteer brigades, also welcomed the review. It was only the UFU who objected and who have denied the victims of abuse their right to have their voices heard, ensuring no female would face the same abuse in the future. While this abusive behaviour has traditionally been towards women, we want to also ensure that no-one is subject to abuse in our fire services. Unfortunately the Andrews Labor government has chosen to side with the UFU and deny any justice or closure to the victims and has also failed to ensure that our fire services will be safe places for everyone in the future.

The UFU first tried to prevent the release of this report in 2017, but in late 2017 Supreme Court Justice Ginnane dismissed the application by the UFU to prevent VEOHRC from conducting and publishing a review into the nature and prevalence of discrimination, sexual harassment and victimisation within the MFB and the CFA. This made way for the report to be published. The following February—February 2018—the brave victims who had participated in the review were advised that it had not yet been published because copies had been provided to stakeholders and agencies to allow them to respond.

I have spoken with some of these participants, and they are absolutely furious that the government say this report cannot be found. The participants were advised that the draft report had gone to agencies but not told which agencies. This report contains very personal information pertaining to the victims, and therefore they have a right to know which agencies received a copy of the draft report, who within those agencies received the draft report and who has seen the content of the report. Was it shown to some of the perpetrators of the abuse? Was it received in hard copy or electronically, and if electronically, was it forwarded to anyone? How was it stored? Where was it stored? Why can't it be found now? Where has it gone? And how would every agency just happen to lose it?

As I said, the draft report that the agencies received contains highly sensitive and deeply personal information, and the participants want to know who has seen their information, the content of their contributions that were included in the draft report, why the reports cannot be found, where those reports have gone now, who has them, how the holders of the report might use the information or if they might publish the contents in another way. But most of all the participants have a right to know why the government have deserted them and why they just do not care about the victims or the missing report. This is just appalling. The government commissioned this report. Victims participated—in good faith they participated. This was a deeply traumatic and deeply personal thing for the victims to participate in. The government have now just deserted these victims. They do not care that the reports may have been lost or that they may be in the possession of the abusers. They do not want to stop this behaviour in the fire services. They prefer to side with their union mates rather than side with the women and protect those who have been the subject of this abuse.

It may just be possible that the agencies have returned the reports to VEOHRC, but the government, in saying that they could not be found, have confirmed that that is not the case. Otherwise they would be saying the agencies returned their copies to VEOHRC, not that the copies cannot be found. It is also possible that a direction was given to all of the stakeholders and agencies to destroy their copy of

the report, and if that is the case, we all have a right to know who issued that directive. If it was a directive from VEOHRC, the government would have simply said, 'All copies have been destroyed at VEOHRC's request', but that is not what the government is saying. They are saying they cannot be found. Therefore it is reasonable to ask if there was a directive from the government, or even worse, a directive from the UFU via the government, to destroy the reports. And is the government trying to cover this up by saying they cannot be found?

Following Justice Ginnane's decision the UFU lodged an appeal in the Court of Appeal. The result of the UFU's appeal was a split decision: two to one, with one dissenting judge, Justice Tate, writing a lengthy alternate decision that could have easily been used as a basis for an appeal of this decision not to release the report. Given that VEOHRC already had that dissenting judge's alternate decision to base an appeal on, and given that it is very much in the public interest for this report to be released in order to address discrimination and sexual abuse in our fire services, I am absolutely gobsmacked that VEOHRC did not appeal this decision.

The whole saga stinks. There is something very, very wrong here, and Victorians have a right to know why this government has gone to such lengths to cover this up. Why are they supportive of their union mates instead of the victims of abuse who have bravely participated in this report? Mr Davis has outlined the precedents for the release of this document via the legal opinion tabled in the New South Wales Legislative Council on 18 November 2015 by Mr Bret Walker, SC, and the Andrews government now has nowhere to hide. This report must be released.

Ms TAYLOR (Southern Metropolitan) (10:54): I will put it clearly on the table, although it has already been eloquently expressed by Mr Erdogan a little earlier, that the government will be opposing the motion for a range of very serious reasons that the previous speaker for the government, Mr Erdogan, has already outlined. I find it mind-boggling that the opposition has the gall to stand up today and lecture us on respect and integrity. This is coming from the party that put out threatening robocalls saying this government's legislative reforms were putting families at risk—and I note—a move described as highly irresponsible by the CFA. It was the then shadow emergency services minister who made the egregious claim—

Mr Davis: On a point of order, Acting President, this is actually a relatively narrow debate. It is about the precise document, one document, that we are seeking. It is also a document that is clearly identified. It does relate to the matters of bullying and so forth in the CFA and the MFB. But it is not a broad debate about everything about the CFA, everything about the MFB and beyond.

Ms Shing: On the point of order, Acting President, it is really unfortunate when Mr Davis raises these points of order around a narrow-cast motion given the other speakers on this motion have traversed some very wide ground indeed. So I would suggest that strategically it might be useful to confine speakers to the narrow nature of that motion in order to then rely upon a point of order like this.

Mr Davis: Further to the point of order, Acting President, the other speakers have actually been quite narrow. Ms Patten was quite narrow, Mr Erdogan was quite narrow and Ms Lovell was also quite narrow.

Members interjecting.

The ACTING PRESIDENT (Mr Bourman): I think we will just keep it at the moment to: can people just keep their contributions to the documents motion and perhaps not stray outside the actual issue at hand.

Ms TAYLOR: I note that we are speaking relative to the motion as it has been drafted, and I do not think it is outside the scope to speak to hypocrisy from those opposite—which is actually directly relevant to the discussion today when we are talking about matters of integrity and respect, thank you very much. It was the then shadow emergency services minister who made the egregious—

Mr Davis: On a point of order, Acting President, she is actually again heading into terrain that has nothing to do with the motion, nothing to do with the document, nothing to do with the matters around this issue.

Ms Shing: On the point of order, Acting President, Ms Taylor has specifically referred to the motion as it has been drafted. Again, should Mr Davis seek to rely upon an argument of scope in saying that this is purely a documents motion and that we should not stray into the subject matter, then the motion ought not to have been drafted in the fashion that it has been.

Mr Davis: Further to the point of order, Acting President, it is actually very narrow. It describes the document and what the document dealt with at the start. It describes, then, a series of processes, including in this chamber. It describes legal opinions, it describes a mechanism and it actually points out—indeed in the final clause—a mechanism for dispute resolution on the documents.

Ms Shing: Further on the point of order, Acting President, Mr Davis in his own contribution referred at length to the process of receiving advice from Bret Walker, SC, as Ms Lovell then went on to refer to a single member of the bench on the substance of the issues being sought on release of the document. This is then something which is squarely within the contemplation of Ms Taylor's contribution to date. Again, it is directly relevant to the contributions which others have made on the issue.

Members interjecting.

The ACTING PRESIDENT (Mr Bourman): I think we have covered this off. The problem we have right at this moment is that it is time to break for question time.

Business interrupted pursuant to order of Council of 7 September.

Questions without notice and ministers statements

FIREARMS LICENSING

Mr BOURMAN (Eastern Victoria) (11:00): My question is for the minister representing the Minister for Police in the other house, Minister Tierney. The Firearms Act 1996 regulates various operations and responsibilities of a licensed firearms dealer: for example, what documents must be kept, minimum requirements for storage and transportation of firearms and so on—details, it could be argued, that are required for public safety. Under section 68 of the Firearms Act the chief commissioner may vary a firearms dealers licence in any way they see fit, which is an issue in itself, but a recent notice about a variation has surfaced, stating that a licensed firearm dealer is required to hold public liability insurance as a condition of their dealers licence. So my question to the minister is: bearing in mind that a lot of firearms dealers do not operate from a shopfront and that public liability insurance is not related in any way to public safety, why is it any business of the licensing and regulation division (LRD) or Victoria Police as to whether a firearms dealer holds public liability insurance or not?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (11:01): I thank Mr Bourman for his ongoing interest in firearms and indeed issues around firearms dealers. I will refer the matter to the Minister for Police for her response as per the standing orders.

Mr BOURMAN (Eastern Victoria) (11:01): I thank the minister for her answer. Any licensed firearms dealer with a shopfront will more than likely have this insurance anyway, but, as noted, not all dealers operate from a shopfront, so my question is: will the LRD release all records showing who they consulted with about this change and what the public safety reasons are for making liability insurance a condition of a firearms dealers licence?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (11:02): Again, I thank Mr Bourman for his supplementary, and I will refer the matter to the Minister for Police.

STRICT LIABILITY OFFENCES

Mr RICH-PHILLIPS (South Eastern Metropolitan) (11:02): My question is to the Attorney-General. The Australian Law Reform Commission has outlined principles for the creation of strict liability criminal offences in legislation. These include that strict liability should not be used, and I quote, ‘where parties must by necessity rely on information from third parties’ and that strict liability should only be used where monetary penalties do not exceed 60 penalty units. Why has the government introduced legislation, including the Forests Legislation Amendment (Compliance and Enforcement) Bill 2019, which breaches those principles?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:03): Sorry, which bill? A bill that is not mine, I think.

Mr Rich-Phillips: The example I used was the Forests Legislation Amendment (Compliance and Enforcement) Bill, but that is just an example.

Ms SYMES: Sure. Well, Mr Rich-Phillips, I guess the simple answer is that when government is developing legislation, and indeed within my portfolio, you consider a range of factors about how the form of a law is fit for purpose. And in the way that bills are brought to cabinet through our process there are coordination comments that go through a variety of departments so that everybody can feed in to make sure that you have the best workable laws for the issue that you are trying to address.

Mr RICH-PHILLIPS (South Eastern Metropolitan) (11:03): I thank the Attorney for her answer. Attorney, the commonwealth department of justice has guidelines on the use of strict liability, the Senate Standing Committee for the Scrutiny of Bills has guidelines on the use of strict liability and the Australian Law Reform Commission has guidelines on the use of strict liability. It does not appear that the Victorian department of justice has any guidelines or policies on the use of strict liability offences, so what guidelines or policies does the Victorian government rely on in implementing strict liability?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:04): I thank Mr Rich-Phillips for his supplementary question. The references that you make in relation to the Australian Law Reform Commission and guidelines from other jurisdictions are not laws. It is up to each state to implement their own laws. In relation to criminal laws, that is a state responsibility, and each state will make the laws as they see fit for how they apply to each state. The commonwealth guidelines that you have identified apply to commonwealth lawmaking, not state lawmaking, and when it comes to making laws in the state of Victoria we consider a range of factors and, as I have indicated, receive a lot of advice from different departments around the best ways our laws should apply to Victorians.

MINISTERS STATEMENTS: COMMERCIAL LANDLORD HARDSHIP FUND

Ms PULFORD (Western Victoria—Minister for Employment, Minister for Innovation, Medical Research and the Digital Economy, Minister for Small Business, Minister for Resources) (11:05): I would like to take this opportunity to update the house on how government is supporting landlords that are waiving rent for businesses during the pandemic, offering grants to those who are doing the right thing to assist our small businesses to trade through these challenging times.

As of yesterday the \$20 million Commercial Landlord Hardship Fund is open for applications from small landlords that are reducing or waiving rent as part of the commercial tenancy relief scheme, which I have previously provided updates to the house on. Eligible commercial landlords that waive rent for their tenants between 28 July 2021 and 15 January 2022 can apply for grants of up to \$6000 per tenancy. In cases of acute hardship, small landlords may be eligible for grants of up to \$10 000 per tenancy. To be eligible for a grant, landlords must provide a rent waiver of at least 50 per cent to their

tenants through the commercial tenancy relief scheme, have total taxable landholdings under \$3 million and use the grant to offset the waiver. Landlords will be eligible for the fund only if they have waived some of the rent owed. They will not be eligible if they have deferred all the rent.

The government will also be providing land tax relief of up to 25 per cent to landlords waiving rent for their tenants, at an estimated cost of \$100 million. To ensure owner-occupier businesses are also supported, businesses that own their own premises may also be eligible for the 25 per cent reduction on the property's 2021 land tax. This is in addition to any previous 2021 land tax relief. All eligible landlords will also be able to defer any remaining 2020 and 2021 land tax until 31 May 2022.

In updating the house on these arrangements, I would again take the opportunity to thank commercial landlords, which have played a very important role and will continue to play a very important role in supporting small businesses in these uncertain and unprecedented times.

ANIMAL WELFARE

Mr MEDDICK (Western Victoria) (11:07): My question is for the Minister for Agriculture. My office received footage of a rabbit farm in eastern Victoria that demonstrated multiple breaches of the animal welfare laws and codes over a prolonged period of time. The owner-operator denied systemic cruelty despite video evidence to the contrary. There was one rabbit who had a disease that had consumed half his face. The code states that:

Ailing or injured rabbits must be treated promptly ... If necessary, they should be humanely destroyed.

The owner-operator failed to humanely euthanise the buck, named Phil. 'It was an oversight because of my attachment to him', he claims. However, attachment to an animal is not a defence to cruelty or neglect. A vet who is an expert on rabbits determined the facial affliction would have caused Phil to suffer greatly. Using that logic, however, the owner-operator must have been deeply attached to the numerous rabbits with head tilt, broken and exposed bones and ulcerations and must have really loved the sick rabbits who were thrown in the bin atop their dead kin. This place is a noxious petri dish of systemic cruelty and potential spread of zoonotic disease. Appallingly the department of agriculture opened and closed the case within two days. Will the minister conduct a thorough review of the cursory investigation conducted by the department of agriculture?

The PRESIDENT: I should have ruled your question out, Mr Meddick, because you went over time, but I will allow it. But, please, as I said last time, check the clock.

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (11:09): I thank the member for his question, a question that raises a number of issues, not just one or two. But I will refer the matter to the minister.

Mr MEDDICK (Western Victoria) (11:09): Thank you, President. My apologies for going over. I was trying to watch the clock but obviously failed there. My supplementary is: will the minister, upon her review, ensure proper enforcement of animal welfare laws, ensuring breaches are penalised in accordance with the government's commitment to genuinely improving animal welfare?

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (11:09): Again, I thank Mr Meddick for his supplementary, and I will refer the matter to Minister Thomas.

COVID-19

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:09): My question is for the Attorney-General. Attorney, earlier this week the chief commissioner told 10 News:

We are establishing two commands ... and one is the COVID Response Command, which is the day-to-day operation.

From a Victorian Police perspective, it's here to stay for the foreseeable future. We've set these commands up as a minimum until the end of 2022.

As Victoria Police is planning to enforce restrictions and lockdowns until, at the very least, the end of next year, can the Attorney-General rule out lockdowns at the end of 2022 with the associated human rights and charter issues?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:10): What we have here today is members of the opposition attempting to make topics that do not fall within my portfolio loosely fall within my portfolio. You have started your question, Mr Davis, as a question in relation to the chief commissioner's comments in relation to operational matters in dealing with enforcing the health orders. That is a police minister matter and a health minister matter. And you have now asked me in my capacity as Attorney-General to rule something out that is not my responsibility either, so it is a little difficult to answer your question as put.

Mr Davis: On a point of order, President, it is actually very clear, given the charter matters and the human rights matters, which are undoubtedly the case, that the minister would have some purview over these matters, and certainly you would hope that she has some involvement in these matters. She can certainly answer and say, 'I don't control the pen that does the orders and I don't control the police', but there are clear, relevant impacts on her area.

The PRESIDENT: Mr Davis, Minister Symes has made it clear to you what is her responsibility and where it is involved, and I think up to this stage I cannot direct her any further.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:12): In that circumstance I ask the Attorney to advise the house what steps she will take to ensure that the lockdowns that go to next year will take proper account of the human rights and charter issues that will arise.

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:12): Any lockdown and any health order that imposes restrictions on the lives of Victorians is balanced against the rights afforded to Victorians under the human rights charter. The right to life in the positions that this government takes, based on health advice, to protect the health, safety and the ongoing wellbeing of Victorians is paramount. We do not want people to die in this pandemic. That is why we have imposed restrictions to slow the spread of this virus, and undoubtedly the steps we have taken have saved lives. In relation to any health orders, in relation to anything that the government does in legislation, it always undergoes an assessment in conjunction with how the human rights charter does apply, and I give you a commitment that every decision that the government makes always considers the human rights charter. That is what it is there for.

MINISTERS STATEMENTS: VICTORIAN TRAINING AWARDS

Ms TIERNEY (Western Victoria—Minister for Training and Skills, Minister for Higher Education) (11:13): Today I would like to acknowledge the incredible work and commitment of all students, apprentices, teachers, employers, TAFEs and training providers during the past 12 months. In particular I would like to draw attention to the 44 finalists of the 67th annual Victorian Training Awards, who have been selected from the highest number of nominations in 10 years, which goes to show how successful and how important the Victorian TAFE and training sector is. The award ceremony will take place online next month and will highlight the achievements, resilience and innovation of the sector and students.

Today I would like to draw attention to the nominees for the industry collaboration award. Firstly, the Victoria Police diversity recruitment program is a national first to improve employment outcomes for African Australians within the Victorian police force. It is a collaboration between Victoria Police, Victoria University, Jesuit Social Services, Africause, AMES Australia, MatchWorks and Maurice Blackburn. Secondly, Wodonga TAFE, Transport Women Australia and Volvo Australia have a program focused on building opportunities and reducing barriers for women seeking employment in the transport industry. And the CYP Design & Construction-Holmesglen Institute collaboration is a project where Lendlease, John Holland and Bouygues have partnered with Holmesglen to meet the

skill needs of the Metro Tunnel project. It features the MetroHub jobs and training centre and the Victorian Tunnelling Centre, another first—a real-time and simulated training facility.

I am proud that the Andrews Labor government recognises the achievements of so many people and organisations and supports real collaboration, and I am sure the rest of the chamber will join with me in congratulating all the finalists.

HOSPITAL FUNDING

Mr HAYES (Southern Metropolitan) (11:15): My question is to the minister representing the Minister for Health. Is the minister aware that World Bank figures show that in the year 2000 Australia had eight hospital beds for every thousand people. That has now fallen to four hospital beds per thousand people, with the result that our hospitals are barely coping, even without a pandemic. If the government insists on rapidly expanding our population for rather questionable economic gains for some to the detriment of our environment and our community health, why does the government not prioritise the welfare of its own people in another way by massively increasing the quality and capacity of our hospitals and improve our hospital bed rates to match the ratio we had previously?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:16): I thank Mr Hayes for his question. I just point out that the stats you have raised I think refer to national statistics. But I am sure that in any event the Minister for Health and his office will be able to provide some information as a response in accordance with the standing orders.

Mr HAYES (Southern Metropolitan) (11:16): I thank the minister for that information. It might be very useful. Minister, we have seen packed emergency departments, ambulance ramping and woeful pandemic response times for some time now. Recent reports from the Alfred hospital indicate overworked staff, staff shortages, inadequate isolation rooms and safety breaches. It is no surprise to see the AMA strike a note of reality and say that we probably do not have the hospital capacity to open up at an 80 per cent vaccination rate. When will the government start including much more hospital infrastructure and resources into its signature Big Build strategy?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:17): Thank you, Mr Hayes, for your supplementary question. I am more than happy to pass that on to the Minister for Health. But I will pick up on the issues that you raised about our hardworking health professionals and, like you, acknowledge that particularly in pandemic times the effort and dedication of our doctors, nurses and hospital staff to indeed respond to this health emergency are incredible. But that is also why it is so important for us to continue with restrictions in order to ensure that the hospital staff and system are supported as best as possible to deal with the increasing cases we are seeing here in Victoria.

COVID-19

Ms CROZIER (Southern Metropolitan) (11:18): My question is to the Leader of the Government. The Chief Commissioner of Police described COVID-19 enforcement as ‘the biggest game in town’. Given the increase in family violence during lockdowns and the importance of eradicating family violence, are the chief commissioner’s comments consistent with government policy?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:19): Ms Crozier, I think that is a really unfair question. The police do a fantastic job in enforcing the health orders and dealing with the issues that are a result of the pandemic and the measures that are designed to keep Victorians safe. We have operations, obviously, up at the border, operations enforcing issues around Melbourne and peri-urban areas, and indeed police are helping with hotel quarantine, all to keep Victorians safe. To suggest that they are shifting focus from their core work of supporting victims of family violence is an unfair characterisation in your question, and to suggest that government policy shifts around to the detriment of victims of family violence is just outrageous.

A bit like my comments to Mr Hayes's question in relation to the efforts and dedication of our health professionals, I thank our hardworking police officers. Their job is to protect Victorians, promote community safety and respond to all crime, and indeed they continue to do so. We have heard from Victoria Police that there have been increases in family violence, and the reason we know that is that they are responding to these issues. So I again put on record my admiration for the hardworking police force of this state.

Ms CROZIER (Southern Metropolitan) (11:20): Thank you, Attorney. That was an interesting response. The chief commissioner also told 3AW yesterday that 1600 police officers were busy enforcing COVID rules—some you mentioned, but there are others, like outdoor masks and banning children from playgrounds. Is the leader concerned that booze and drug tests are down 80 to 90 per cent this financial year, with the potential for those that are drug or alcohol affected on our roads and in the community to cause harm?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:21): The question was directed to me as leader. I do not have responsibility for police, and I do not have responsibility, therefore, for alcohol- and drug-testing operations that police conduct. These are also operational matters for police. But I would make the point that due to restrictions there are a lot less people on the road, so I would probably hazard a guess that police command are not perhaps setting up some of their operations, because there would not be many people to indeed deal with with the booze buses, for example. However, police are still out and about on the beat and enforcing—

Dr Bach: Tearing children off slides.

Ms SYMES: You have seen police officers pull children from slides, have you? That is what you have seen. That is the allegation that you have made. You have seen police drag children. This is the—

Members interjecting.

Ms SYMES: The comments against our Victoria Police officers from those opposite are horrible. They are— *(Time expired)*

MINISTERS STATEMENTS: WORKPLACE SAFETY

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (11:22): I rise to update the house on the importance of keeping our workplaces safe during the global pandemic. We know that the COVID-19 pandemic and the necessary public health restrictions have significantly impacted our day-to-day life, including the way that we work. We know that Victorian businesses are undertaking a mountain of work to keep their staff safe from COVID-19, implementing strict protocols and measures to respond to this deadly global pandemic. But the response to the pandemic must occur in parallel with ensuring OH&S compliance for other safety concerns, be that on construction sites, on farms or in factories.

I want to urge businesses to take the risks of falls from heights in particular seriously on construction sites, in manufacturing and on our farms as harvesting ramps up. Every fall from a height is preventable, but falls remain one of the largest causes of death and serious injury in Victorian workplaces. WorkSafe has guidance available, and we are urging Victorian workplaces to carefully review it and make any necessary changes to their practices, because WorkSafe will take action against employers who are not taking these risks seriously and are putting workers' lives at risk. Victorian workplaces are often dynamic, but one thing must remain constant: our collective vigilance to make the safety of workers a top priority in every Victorian workplace.

COVID-19

Mr QUILTY (Northern Victoria) (11:24): My question is for the Minister for Health. There are 16 000 applications pending approval from people waiting to enter Victoria from New South Wales.

Most of these are Victorians just trying to get home. They have been stuck in New South Wales without a home for weeks. Many are unable to work and are paying for accommodation on top of their usual mortgage or rent. They are in a desperate situation caused entirely by this government. International human rights organisations describe people in these situations as internally displaced persons—refugees. These Victorians have a right to return home, and the Australian constitution supports this. State governments may not prevent free movement between states; any exception requires good reason and must be a proportionate response to be legal. Melbourne already has a significant COVID outbreak, yet even people who test negative for COVID are being refused permission to return home to Victoria. Minister, in what way is preventing COVID-negative Victorians from returning home a proportionate response?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:25): I will pass the question on to the Minister for Health, noting that it is asking for an opinion. But I am sure that we can provide further information about the measures that the Victorian government is undertaking to ensure that Victorians can get home. You would be aware of the new permit for Victorians that are currently on the New South Wales side of the border bubble and their ability to access a permit to return to other parts of Victoria, with strict conditions such as self-isolation. In relation to other Victorians that are in New South Wales, there is a national cabinet discussion around the returning of people to their homes across the country, and indeed these considerations look at the protection of the health of the states that people are returning to, hotel quarantine capacity and the like, but these are issues that are being discussed and advanced.

Mr QUILTY (Northern Victoria) (11:26): I thank the minister. As the minister just said, the government recently outlined new rules that may allow some of these people to get home. To apply for this permit you are required to be in the border area for 14 days. You must be able to isolate at home for 14 days, test negative to COVID and get your first dose of the vaccine. In effect these people have been locked out of their homes and the only way to get back home is to submit to getting a vaccine. There is no COVID prevention reason for this. Anyone returning to Victoria will not have COVID, and if they did have COVID getting the vaccine would not stop them bringing COVID to Victoria. There is no justification for requiring a first dose of vaccine as a condition for returning to your home. The government forces these people into a desperate situation and then abuses the vulnerability of the situation to coerce them into getting a vaccine. The *Australian Immunisation Handbook* makes it clear that consent is not valid in the presence of undue pressure, coercion or manipulation. Minister, what is the government's justification for requiring Victorians to take the vaccine before allowing them back to their homes?

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (11:27): I thank Mr Quilty for his question, and indeed the Minister for Health can provide some further details on this, but all requirements on people returning to Victoria or indeed entering Victoria are made on public health grounds for the protection of our community.

COVID-19 VACCINATION

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:27): My question is to the Minister for Workplace Safety. Minister, you just referenced a few moments ago keeping workplaces safe during the pandemic, and I therefore ask: what percentage of staff at WorkSafe are vaccinated?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (11:28): I thank Mr Davis for his question. As Mr Davis would understand, WorkSafe is an independent agency, and I do know that the CEO and senior executives of WorkSafe have been for many, many months now strongly encouraging all of their employees to get vaccinated, particularly any of those workers within the WorkSafe operation that are public facing, and that is something that I fully support. As Mr Davis is well aware, the prioritisation of workforces in terms of the rollout of the vaccination program is a matter for the health experts, and the Victorian government is working closely with the commonwealth in that regard. I would just indicate my strong support for all

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employers, not just WorkSafe but all employers across Victoria, to do whatever they can to encourage and facilitate their staff to become vaccinated.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:29): It seems to me that the minister has not got an answer to how many or what percentage are vaccinated at WorkSafe. But WorkSafe of course has a very particular role—a leadership role in workplace safety, as the minister has in fact outlined—and needs to set an example. In that respect there were 1385 staff at 30 June 2020, and I ask you: will you now go and ask and find out how many have been vaccinated and report to the house?

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (11:30): I thank Mr Davis for his supplementary question. Obviously I speak to WorkSafe on a regular basis about all manner of health and safety priorities, and I know that WorkSafe are continuing to play a really important part in the government's response to this global pandemic. As I have already indicated in my substantive answer, it is a voluntary vaccination program at this point in time. Employees of WorkSafe have been strongly encouraged by that organisation to get vaccinated since the beginning of this pandemic last year, and I will continue to advocate strongly for that to continue to be taken up. I note that now anyone over the age of 16 in Victoria can access our vaccination hubs, and also as supply improves as a result of the federal government providing Victoria with its adequate share of vaccination supply I would urge all Victorian workplaces to take up that option.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:31): I move:

That the minister's answer be taken into account on the next day of meeting.

Motion agreed to.

WRITTEN RESPONSES

The PRESIDENT (11:31): Going to questions and answers today: Mr Bourman to police, Minister Tierney, two days, question and supplementary; Mr Meddick to agriculture, Ms Tierney again, two days, question and supplementary; Mr Hayes to health, Ms Symes, two days, question and supplementary; and Mr Quilty to health, two days, question and supplementary.

Having said that, I noticed today that I was struggling, first of all with the time—we did not look much at the clock—and, secondly, some questions and supplementaries were not related to the question or to the answer. Please, members, just consider this.

Constituency questions

NORTHERN METROPOLITAN REGION

Mr ONDARCHIE (Northern Metropolitan) (11:32): (1371) My constituency question today is for the Minister for Police. The people of Reservoir are concerned about hooning and antisocial behaviour in their suburb. In my electorate of Northern Metropolitan Region I recently invited the people of Rezza to complete my community survey, and I thank those people who replied to my survey. Reservoir is such a diverse and wonderful community. But they want safer streets, and many reported to me antisocial behaviour and hoon driving on local roads. So the question I have for the minister is: will the minister commit to extra police patrols to better deter hoon driving and antisocial behaviour near Broadhurst Avenue and Radford Road, near Vale Street, near Boldrewood Parade and along the Broadway and along Edwardes Street? Our Reservoir residents really care for their community, and they want a cleaner and safer suburb for their families.

WESTERN METROPOLITAN REGION

Dr CUMMING (Western Metropolitan) (11:33): (1372) My constituency question is to the Premier. When will the lockdowns and restrictions end? I am asked this every day, and my constituents deserve an answer. This particular constituent stated that she understands why COVID lockdowns and restrictions have been needed at times but not at all times. She believes that we must open up the

country once everyone who wishes to be has been vaccinated without coercion. She feels that ongoing restrictions have caused immeasurable extra harm to lives, livelihoods and democracy, and she believes that this is astonishingly costly. She believes that we need to go back to normal life, knowing that we are always going to have COVID cases around us. She wants to know when lockdowns and restrictions will end. My constituent feels that these lockdowns will not end until December.

NORTHERN VICTORIA REGION

Ms LOVELL (Northern Victoria) (11:35): (1373) My question is for the Minister for Roads and Road Safety, and I seek an update on planning for a full diamond interchange at the intersection of Watson Street and the Hume Freeway, Wallan East. The project will see the construction of south-orientated Hume Freeway on-off ramps to exit and enter Watson Street, Wallan East, creating a full diamond interchange at the intersection to ensure a free flow of traffic. Mitchell Shire Council has long advocated for the project to be elevated as a priority by the Andrews Labor government, and when I last raised the issue in November 2019 the then minister stated that the Department of Transport was currently progressing planning approvals that would enable this project to be considered for construction funding. The project fits with Infrastructure Australia's currently listed priority project, the Melbourne outer northern suburbs to CBD capacity upgrade, and recommendation 70 of Infrastructure Victoria's draft 30-year infrastructure strategy. Will the minister prioritise the construction of a full diamond interchange at the intersection of Watson Street and the Hume Freeway in Wallan and commit to the state's share of funding for the project?

NORTHERN VICTORIA REGION

Ms MAXWELL (Northern Victoria) (11:36): (1374) My constituency question is for the Minister for Roads and Road Safety and relates to the Midland Link Highway, which connects Mansfield to Benalla. I am informed that a 60-kilometre section of this road is carrying approximately 3000 vehicles per day, 750 of them trucks. Some trucks can use up to 5.5 metres of the available carriageway, which is only 6 metres wide in parts. The desired solution is to widen the road by 1 metre on both sides. Some improvements have been undertaken, such as the shoulders and installation of guardrails, and 25 per cent of the road has been widened. This leaves 75 per cent still needing attention, so my question is: what is the time line for carrying out the remainder of this work to improve the safety of this section of road?

WESTERN METROPOLITAN REGION

Mr FINN (Western Metropolitan) (11:37): (1375) My constituency question is to the acting Minister for Local Government. Yesterday the mayor of the City of Maribyrnong, Cr Michael Clarke, proposed a plan by which the council would establish some sort of plant, presumably, for the production of medical cannabis. Last night, much to my surprise, the full Maribyrnong council endorsed Cr Clarke's plan. Now, my support for medical cannabis is on the public record, so that is not the issue. My concern is this municipal council extending itself to risk the ratepayers' hard-earned on a commercial venture. Even in the widest reading of the role of local government it is impossible to see how this enterprise can be justified. I like Cr Clarke, and I am very happy to work with Cr Clarke on a range of matters aimed at bringing benefit to the people of the municipality of Maribyrnong, but this is not one of them. Acting Minister, what is the Andrews government's attitude to Maribyrnong council's leap into private enterprise, and does it set a precedent for other councils starting their own businesses?

The PRESIDENT: Sorry, members, I am struggling a bit to understand the bells when someone is not here. I know I have got a couple of names on the list in front of me of people who are not in the chamber. I was checking with the Clerk what the temporary orders say. I have to ring the bells for every contribution. I do not think this is on, but I have to follow the temporary orders. I am just putting you on notice. I will look into it.

WESTERN VICTORIA REGION

Mrs McARTHUR (Western Victoria) (11:38): (1376) My question is for the Minister for Resources and relates to Beach Energy's development of its successful enterprise project exploration near Port Campbell into a production well. For the record, there will be no drilling within the Twelve Apostles Marine National Park. Extended reach drilling is a proven, safe technology with minimal environmental impact. It will not damage aquifers or impact the cliffs. Through its development the project has faced complex, detailed and extensive regulation with multiple state and federal bodies. Protection of the cultural and environmental value of the area is central to this. In production it will be subject to stringent, ongoing monitoring. Gas is absolutely vital for all Victorians for affordable cooking, heating and for employment in agriculture production and manufacturing. My question to the minister is: will she join me in rejecting the populist, ignorant, cliff-collapsing, environmental scare stories which the Greens party are whipping up to support their hardline anti-gas agenda?

EASTERN VICTORIA REGION

Ms BATH (Eastern Victoria) (11:40): (1377) My constituency question is for the Minister for Education. Geographically remote, the beautiful town of Omeo is 400 kilometres from Melbourne and 300 kilometres from Shepparton, 6 hours away from the nearest active COVID case. Parents are overseeing their children's remote learning through digital media and also set out through hard copy work. Under Daniel Andrews's COVID restrictions in regional Victoria, they can visit a playground, they can do community sport, they can go to creative studios, yet the parents are still homeschooling—and they are exhausted. They are conducting their own work and they are being parents and teachers, and they are very worried about their children's mental health, being isolated and away from teachers, away from that face-to-face interaction, away from the learning environment, the positive learning environment, that classrooms afford. My constituents are highly distressed by this, so I urgently ask the minister to allow students in my electorate of Eastern Victoria Region and specifically in Omeo to support my constituency to open immediately.

SOUTHERN METROPOLITAN REGION

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:41): (1378) My constituency question is for the Minister for Small Business, and it relates to the matter that I raised in this house yesterday, in fact, relating to the SOS Cafe in South Yarra. Now, the minister did tell me that there was a problem with the registration of that business and apparently they do not have a code that is needed to ensure that they can proceed. But actually this does not appear to be true, when I have looked at this, and I have actually seen here—I have their current ABN details, active from 30 March 2021, and they are registered for GST. So what I am asking the minister to do is to look again at this case and to ensure that the SOS Cafe is provided with the support that it is entitled to.

The PRESIDENT: Members, I really appreciate the members who just sent messages and came here to tell me that some of their contributions are already incorporated. Otherwise I would have asked for the bells to be rung and it would have been a waste of time, to be honest. I do not know how to put it, but we need that connection between the members and us when they put their names on a list and how we are going to avoid ringing the bells. That is all I am going to say. It can be through your whip, through me, through the Clerk, whatever. Thank you for your support.

NORTHERN METROPOLITAN REGION

Dr RATNAM (Northern Metropolitan) (1379)

Incorporated pursuant to order of Council of 7 September:

My constituency question is to the Minister for Transport Infrastructure.

My office has been contacted by a number of Kensington residents whose lives are being severely disrupted by the installation of a track turnout at the western portal of the Metro Tunnel, which makes a very loud sound whenever a train passes over.

Residents have been told that the turnout is temporary and that it should be removed when trains begin using the new Metro Tunnel, which is expected to be in 2025.

Given that this is four years away, residents are understandably upset that they are expected to live with this disturbance for such a long time.

I understand that no solution to this problem or noise mitigation treatments have been offered to affected residents.

My question is: what actions will the government take to reduce the noise impacts that this track turnout infrastructure and the Metro Tunnel works are having on the residents in this area?

WESTERN METROPOLITAN REGION

Ms VAGHELA (Western Metropolitan) (1380)

Incorporated pursuant to order of Council of 7 September:

1. My constituency question is directed to the Honourable Luke Donnellan, MP. My question relates to the minister's portfolio responsibilities for disability, ageing and carers.
2. The Work That Matters campaign is aiming to match the growing demand for disability support workers in Victoria through developing a strong and skilled disability workforce.
3. The campaign forms part of the Andrews Labor government's \$26 million workforce plan for the NDIS, 'Keeping our sector strong', to support the federal government, which is responsible for the NDIS.
4. The campaign is running on radio, print and online and includes a new online hub with resources and information to support entrants into the disability sector, help current employees progress their career, and employers recruit workers.
5. This campaign is aiming to expand the size and capability of Victoria's disability workforce and highlight the crucial work carried out every day by the thousands of people that make up Victoria's diverse disability support workforce.
6. My question to the minister is: can the minister please provide an update on how this initiative benefits my constituents of Western Metropolitan Region? Can the minister also advise the types of disability support workers that are most needed in the Western Metropolitan Region?

Production of documents

FIRE SERVICES WORKPLACE SAFETY

Debate resumed.

The ACTING PRESIDENT (Mr Bourman): Further to your point of order, Mr Davis, I am not going to uphold it, but I invite the member to keep her contribution to what is on the notice paper. If we go off on a tangent, if you can bring it back to what is on the notice paper, that will make it a lot easier, rather than an interpretation of what the notice paper may or may not say. It is fairly narrow, even though it is quite lengthy, so can you just keep it going down that nice little narrow path.

Ms TAYLOR (Southern Metropolitan) (11:44): If I may say, the premise upon which I was putting forward various points for *Hansard*, on the record, was that it goes to the premise upon which those opposite are taking this motion and the extraordinary action that they are asking of this chamber in seeking—and I will go further to the issue with regard to seeking to in effect overrule the courts—on the premise, if I have understood correctly, that part of the justification for their motion today is claiming to have a particular affection for or to be putting forward a certain element of advocacy on behalf of members of the CFA. That is what I am hearing, and so that is why I think we are perfectly justified to rebut that premise, because we are pointing out, as we are entitled to do, witnesses in the argument that you are putting forward. That is what I was seeking to do. Now, it might be unpalatable to those opposite when they have to face actions they have put forward in the past, but I think we are justified in doing so.

The ACTING PRESIDENT (Mr Bourman): Order! Ms Taylor, you are kind of half-debating the point of order, which is done. If we can just move on, it would be fabulous.

Ms TAYLOR: Fabulous? All right. On that point of the extraordinary ask of this chamber and all the members in this chamber, the opposition seeks to use this motion to create a dangerous precedent. I feel on a personal level, not to mention our government, extremely uncomfortable with what you are seeking to do and the outrageous position that you are putting the court system and the Victorian Equal Opportunity and Human Rights Commission in at this point of time. It is outrageous, and I think it is actually arrogant, seeking to overrule a matter that is in a court. I think it is outrageous because you are setting a precedent that goes against the very grain of the legal system. I think it would be timely and appropriate for those opposite to reflect on what they are seeking to do and what they are seeking for us to do as members in this chamber—the position that they are putting everyone, and our integrity in this chamber, in.

Whilst those opposite seek to use this motion, as I was saying, to create a dangerous precedent that would seek to invalidate the decisions of any court the opposition disagrees with—hence the arrogance, the flagrant disregard, and I think we can see why that is a very dangerous precedent—we would rather talk about, contrary to what has been asserted by those opposite, the very real issues of bullying, harassment and sexual offending that continue to pervade our workforces and, further to that point, what we are doing about them, because we actually want to tackle these issues head-on. We do not just want to make a dangerous political point in the chamber, and it is just a political point that you are seeking to make. It is limp, and that is why I made the statement about it being galling, because in light of your past behaviour on such matters—I do not mean you personally committed these actions; I am just saying with regard to the CFA and the like, and I was not allowed to entertain that point further—

Mr Davis: On a point of order, Acting President, we are beginning to stray again into the territory that we do not need to stray into.

The ACTING PRESIDENT (Mr Bourman): It is kind of straying there, but it is still not there. If you can just try not to.

Ms TAYLOR: Far from seeking to silence—to your point, Ms Lovell—or minimise the very real problems that exist, this government is calling out this behaviour, supporting victims and backing our emergency services agencies to change the culture that has been a blight on all for too long.

Ms SHING (Eastern Victoria) (11:49): Well, if we were concerned about relevance in previous contributions, we need not be concerned any longer, because what I want to talk about today is the separation of powers, and what I want to talk about today is the nature of decision-making as it occurs between the Parliament on the one hand, the judiciary on the other and the executive. When I say judiciary, this includes not just quasi-judicial tribunals, including but not limited to statutory bodies such as the Victorian Equal Opportunity and Human Rights Commission, and indeed I think Mr Davis had referred in his contribution to racing tribunals and decision-making bodies in New South Wales as being a proper basis upon which to argue that information could be sought and indeed provided to this Parliament.

What I also want to do, though, in the time I have available today is talk about the fact that this motion is essentially seeking something which seeks to in fact trample over the well-established, well-affirmed and indeed inherent concept of our Washminster system, being the hybrid that it is.

Ms Lovell: Washminster?

Ms SHING: Yes. It is a hybrid, Ms Lovell. So what I would encourage those opposite to do is to reflect on a number of contributions which they themselves have made, when they have occupied government benches, around the sanctity of the separation of powers as it operates when they are in government. Now, *Hansard* speaks for itself in that regard, and there are countless examples. But one of the things we heard, just this morning from Mr Erdogan, was a contribution about the former opposition leader, Mr O'Brien—a barrister and, therefore, somebody who is licensed to drive an argument of this nature around the separation of powers—in fact saying that it is necessary and

appropriate to have regard for this particular distinction between the Parliament, the executive and the judiciary as it relates to decision-making and to the release of documentation, such as the report being sought by this motion.

We have seen a broad collection, I would say a loose rabble, of motions put in this Parliament and indeed in the previous Parliament, usually led by Mr Davis—and you have to give him points for persistence on this—for production of documents, claiming in one breath that privilege ought to be something that can be put to one side, claiming in another breath that commercial-in-confidence documentation ought to be able to be put to one side, claiming in another breath that the separation of powers is but a garnish on parliamentary democracy and indeed the social contract that we have here in Victoria, but then when in government in fact claiming the exact opposite.

So it is more than a little rich that on the one hand we have Mr O'Brien saying, 'Our courts must always be above partisan politics', before then saying, 'Victoria needs an independent judiciary now more than ever', and then having Mr Davis come to this chamber and argue that it is within the purview and the remit of this Parliament to set aside the consideration and the sanctity of the judiciary in reaching the conclusions that it has in this matter as it relates to appeal applications and proceedings, which have reached a Court of Appeal decision—comprising three members of the judiciary—and go beyond the advice which Mr Walker has indeed provided around release of this documentation.

We hear those opposite flinging around references to the High Court, flinging around references to Justice Ginnane and indeed to others who have expressed opinions and made decisions around the capacity to release this information, but those opposite then conveniently neglect to reference the consideration and determination of this matter which has resulted in an order not to release this information and the report in the terms sought, in response to an application by one of the interested parties to that matter.

Now, I do not know what the review says. I have not seen it. It is pretty clear that people here have not seen it, and it is pretty clear that there is a lot of speculation about it in this chamber and indeed in the public domain. I would suggest that in fact it is interesting to look not just at what is being sought but why it is being sought. Time after time we see attempts in this Parliament made by people who in fact, in my view, should know better and, in my view, do know better. With kudos to Mr Davis, he has been here long enough to understand the way in which the separation of powers operates. He has been here long enough to have been part of a government which has tied its colours to the mast in relation to the sanctity of the separation of powers. He has been a member of an opposition led by a legal officer qualified to practise and indeed with many views that perhaps carry a little more weight than the armchair experts who are drawn to comment on these matters.

Yet now, for the sake of what I would say are other purposes, Mr Davis comes here and he seeks to run roughshod over the determination of a Court of Appeal decision and the order which has flowed from it. So we will no doubt see many more motions like this. We will no doubt—as we have done in this Parliament and indeed the last Parliament—hear many claims from Mr Davis and indeed from others about why it is that documents should be released. Mr Davis will indeed trot out, as he always does, as his colleagues do, the putative primacy of the public interest. The primacy of the public interest, interestingly, only seems to apply to the opposition when it works for the purposes of their broader narrative. So what we do need to understand is that as much as Mr Davis and his colleagues might wish that this were—

Mr Davis interjected.

Ms SHING: Thank you for the water, Mr Davis. See, this is the collegiate approach which I do quite like. I have got to say that there are many instances of banter on the record between Mr Davis and I which involve give and take. In this instance he has in fact perhaps not metaphorically but quite literally sought to pour some water on the situation that I am facing over here with a scratchy throat.

What we do need to take account of, though, is that just because those opposite might wish to claim that the public interest applies in a situation that is convenient to their political narrative does not mean that it therefore becomes a sword by which—a privilege by which—the separation of powers and the orders of a Court of Appeal can be set aside. It does not follow that every time the opposition comes to this place with a documents motion and indeed says, ‘We would like to see this because it is in the public interest; therefore we want you to depart from well-established conventions and indeed doctrines that apply for the purposes of the system of separation of powers here in Victoria’, they should in fact just get them as a matter of course—that if they craft the argument with sufficient eloquence from across the way on the opposition benches they will in fact be justified in saying that they are entitled to the information.

Ms Lovell in her contribution said words to the effect of, ‘If you have nothing to hide, then it should not be an issue’. It is an interesting application of the onus of proof. It is one which again flies in the face of numerous contributions on the record from those in opposition when they were in government. Indeed it is always interesting to hear those opposite claim that in fact we should disclose everything just to put minds at ease. I have heard a fair few conspiracies like that, including one such example which referred to a former President of the United States just showing his birth certificate so that we could actually understand that there was nothing to hide.

Mr Davis: On a point of order, Deputy President, we may be going a bit far when we get to the birth certificates of United States presidents.

The DEPUTY PRESIDENT: I will bring the speaker back to the motion. Birth certificates of the presidents of the United States are outside the scope of this debate.

Ms SHING: On a new point of order, Deputy President, I am in a position to stand up and to make a contribution based on what a previous speaker has referred to, that being: if you have nothing to hide, then there should be nothing to fear. In that context I am well within my rights to stand here and to refer to the fact that this is dangerous reasoning, these are dangerous arguments and they are also arguments, to my mind, made by weak and indeed impotent reasoning that flies against—

The DEPUTY PRESIDENT: Sorry, are you debating now or are you still on your point of order?

Ms SHING: I will just continue my contribution and not pursue the point of order. I will just finish my contribution with the time I have available. We oppose this motion.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (11:59): I will be very brief in my summing up and just make a number of clear points. This is part of a government cover-up, pure and simple, and that is actually very concerning. I think that there are serious matters of public policy. It is in the public interest that this government-commissioned report be released. The United Firefighters Union (UFU) and the government have gone to every length to stop this document being released. It is clearly very embarrassing. Ms Lovell put on record a number of key points about those who were consulted in the production of the document, those who gave evidence in the production of the document, and it is very clear that the document has actually taken testimony from people which would be embarrassing to the government.

Further, the charge that in some way this overrules the courts is not correct. The courts have a separate power, that is quite true. The chamber has a separate power quite distinct from the courts. The chamber is able to inquire into and look at documents much more broadly, and that was the point of the Bret Walker opinion in New South Wales and the earlier Bret Walker opinion that this chamber requested going back prior to 2010. I urge people to read that to see what the powers of the chamber actually are and on which they are founded. It is not about overruling the courts; this is about the chamber having

a distinct and separate set of powers. Let me also be quite clear: the motion is actually very carefully framed, and if people read point (7), it says:

- (7) further notes that standing order 11.03 provides a mechanism whereby documents that the government agency or individual is of the view should not be released can be subject to the ruling of an independent legal arbiter.

Be very clear here that if there is some genuine reason why the document ought not to be released to the chamber, there is a mechanism directly in the standing orders that is in place. An independent arbiter can be appointed. New South Wales has done this; they have done this for many years. Documents are provided to the arbiter, and the arbiter, who is an independent person and very respected by all sides of the Parliament, will often make decisions to say these documents should not be in the public domain or should not be released. And that could well apply here if this document is genuinely a document that should not be in the public domain. But the truth of the matter is the court has one view over there, and the chamber has a separate and distinct power to request this document. I say be very clear here: the document is important in my view, and the information I have heard and seen about these matters shows that it is a matter of significant public interest and significant public concern.

Ms Shing interjected.

Mr DAVIS: No, no, I am saying that people have spoken to me about the document, and they have actually made points to me about the document. Ms Lovell laid out a number of key points about the document and about the way the information was gathered from witnesses who have spoken. She has actually put some of those matters on the public record, and they are very significant points. And those people who in good faith gave evidence to the producers of the document actually want to see it released. They believe it should be released. They believe it is a breach of faith with them, who provided information. In truth, there is a real risk that in fact some of those who are subject to criticism in the document may actually have copies in their possession.

I think we have got to be very careful here and actually be very clear about what we are doing here. The chamber has the authority to demand this document. We should demand the document. We have clear precedents and clear information from New South Wales about a mechanism to do that. If the Attorney says she cannot obtain the document, the document can be obtained directly from the agency. Now, if the agency is of the view that the document should not be released, the standing orders actually have a clear mechanism for an independent arbiter which would enable that to occur and enable the agency to put its view to the arbiter. An independent arbiter could make that decision quite fairly and on the basis of information that is put to them.

I say this document should be in the public domain. I say the government is involved in a clear cover-up here. The government wants to do anything to stop this document coming into the public domain, the Premier wants to stop it coming into the public domain and the UFU wants to stop it coming into the public domain. It is important that it is released.

House divided on motion:

Ayes, 13

Atkinson, Mr
Bach, Dr
Barton, Mr
Crozier, Ms
Cumming, Dr

Davis, Mr
Finn, Mr
Grimley, Mr
Hayes, Mr

Lovell, Ms
Maxwell, Ms
McArthur, Mrs
Ondarchie, Mr

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Noes, 19

Elasmar, Mr
Erdogan, Mr
Kieu, Dr
Limbrick, Mr
Meddick, Mr
Melhem, Mr
Patten, Ms

Pulford, Ms
Quilty, Mr
Ratnam, Dr
Shing, Ms
Stitt, Ms
Symes, Ms

Tarlamis, Mr
Taylor, Ms
Terpstra, Ms
Tierney, Ms
Vaghela, Ms
Watt, Ms

Motion negatived.

Sitting suspended 12.12 pm until 12.31 pm.

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WEST GATE TUNNEL

Debate resumed on motion of Mr DAVIS:

That this house:

- (1) notes the material released in August 2021 by Transurban on the West Gate Tunnel (WGT) Project to investors, including that:
 - (a) tunnelling has not commenced as a result of disputes arising between the project parties;
 - (b) project completion in 2023 is no longer achievable and, due to continued uncertainty in relation to the resolution of commercial matters and timing for commencement of tunnelling, a further update on the expected project completion date cannot be provided at this stage;
 - (c) the contracted total cost of the project was \$6.7 billion, with estimates of additional costs to complete the project differing among project parties and remaining uncertain; however, based on preliminary independent analysis, Transurban estimates the D&C subcontractors' construction costs could increase by \$3.3 billion, with the D&C subcontractors' claims being higher;
 - (d) in order to reach a commercial settlement, Transurban believes all project parties would be required to make a meaningful financial contribution;
- (2) further notes the WGT Project, a Transurban market-led proposal, was signed in December 2017 and was subject to a report by the Victorian Auditor-General;
- (3) further notes the mismanagement of the WGT Project by the Andrews Labor government, a project that is now late, over budget and the subject of legal dispute;
- (4) insists that the state government pay no more than the contracted amount and not further extend any toll concession; and
- (5) calls for a pause on the collection of WGT-related tolls levied on existing CityLink roads.

Mr FINN (Western Metropolitan) (12:33): I rise to support the motion moved by Mr Davis on the West Gate Tunnel Project, and I tell you what, when it comes to the West Gate Tunnel Project it is very difficult to know where exactly to start. I think it is worth going back just to give a small precis. I was chair of the committee that oversaw this project some years ago, and I recall thinking to myself then, 'There is something that is very, very wrong here'—and nothing has changed since. I have to say that having seen what I have seen over the last, what is it, five years—and I have said this publicly before, so I suppose it should come as no surprise to anybody—it would not surprise me at all if, when this project is fully examined, perhaps by IBAC, somebody or other or more than one person in fact might end up in jail.

There is something desperately wrong with this project, and I am deeply concerned, particularly as a representative of the western suburbs, that the people of the west are getting screwed over here quite comprehensively, because this project was designed by Transurban for Transurban and the only beneficiary of this project in fact will be Transurban. It seems to me that any perceived benefit—and I say 'perceived' because there is not going to be any real benefit—that the people of the west might have from this project is a very, very long way away. That is something that we do not deserve, because we had the promise of the east–west link, which was going to give us the answer to the traffic problems

that are strangling the western suburbs of Melbourne. But instead the Andrews government gave this very, very dodgy deal to its dodgy mates at Transurban, and the people of the west are going to suffer.

Not only are many of us particularly in the north-west paying extra tolls—higher tolls on the Tulla, on CityLink—but we are also having to wait for an extended period for a tunnel. Well, you have got to wonder if it is ever going to be finished or not. And even when it is finished, it is quite extraordinary that anybody would have put up a project that is going to do for the western suburbs what the Eastern Freeway and Hoddle Street do for the eastern suburbs. Why would you do that? I do not understand that. I have asked numerous people if they can explain it to me, but they cannot. Members opposite cannot. We had the CEO of Transurban before us when we were on the committee, and Mr Ondarchie will back me up here, because we sat there looking at Mr Charlton thinking to ourselves, ‘What have we got here?’—

A member interjected.

Mr FINN: And I don’t expect you’ll get one either, I have to say. We had the secretaries of various departments in. None of them had any idea what was going on. All they did was deny, deny, deny that anything was happening between Transurban and the government. Well, those denials were barefaced lies, and in my view, given they were giving sworn testimony at the committee, and as far as I am concerned, those lies were a contempt of the Parliament because it is very, very clear—and I think I am the only one listening to this—

Mr Ondarchie: On a point of order, Acting President, the contribution of the member is very important to this debate, and unfortunately there are a lot of conversations going on from the front of the room all the way back. I wonder if you could bring the chamber back to order.

The ACTING PRESIDENT (Ms Patten): Thank you, Mr Ondarchie. Yes, we will try and bring the roar down to a steady purr, as it were.

Mr FINN: Thank you, Acting President. I am all in favour of a steady purr. I thank Ms Pulford for her support during that time and also of course Mr Ondarchie, who sat with me through that committee that I have been speaking of for quite some time. Quite frankly, anybody who examines the transcripts of the committee inquiry will come to the exact same conclusion that I have, that there is something very, very wrong with this particular project. It has got worse since we examined it about seven or eight years ago now. It has got worse because we have had the problem—I am not sure exactly how long I have got here—

The ACTING PRESIDENT (Ms Patten): Thirty seconds.

Mr FINN: In that case I will be very, very quick. We have had a problem with the toxic soil, and the people out in my area are going to have this dumped on them—at Ravenhall, at Sunbury, at Bulla. They are going to have this carcinogenic, toxic soil dumped upon them. So the people of the west are copping it left, right and centre and from various angles, and it is disgraceful, it is despicable and it is something that we did not ask for. We do not want it, and as far as I am concerned the government can get stuffed.

Ms TAYLOR (Southern Metropolitan) (12:39): I move:

That debate on this motion be adjourned until later this day.

Motion agreed to and debate adjourned until later this day.

WORKSAFE VICTORIA NON-ESTABLISHED, NEW OR EMERGING TREATMENTS AND SERVICES POLICY

Mr GRIMLEY (Western Victoria) (12:39): I move:

That this house:

- (1) notes that:
 - (a) frontline emergency services have a higher rate of mental illness as a result of their work;
 - (b) WorkSafe provides compensation for a range of reasons, including mental health injuries as a result of work;
 - (c) WorkSafe's non-established, new or emerging treatments and services (NENETS) policy provides an avenue for contemporary treatments and services, including psychiatric assistance dogs and equine therapy, to be assessed on a case-by-case basis;
 - (d) it can take approximately nine months to approve a psychiatric assistance dog claim to treat post-traumatic stress injuries (PTSI), as opposed to a 27-day average for general mental health claims and a seven-day average for physical injury claims;
 - (e) WorkSafe have previously approved psychiatric assistance dogs to treat PTSI; however, this policy does not hold precedent and is not legislated, meaning that each claimant must undergo an extensive and exhaustive legal process, causing additional financial and emotional stress;
 - (f) the Department of Veterans Affairs has a psychiatric assistance dogs program to treat veterans with PTSI and many animal therapy approaches have yielded extremely positive results;
 - (g) the terminology of post-traumatic stress 'injury' is preferred by sufferers, rather than the outdated term 'disorder';
- (2) calls on the government to:
 - (a) review its NENETS policy to ensure future claims for canine and equine therapies treating PTSI are considered without delay and not unfairly denied in the future; and
 - (b) ensure WorkSafe's NENETS policy is recorded publicly to allow transparency for those seeking claims and their legal representatives.

It was 37 years ago that Ron Fenton was shot in the back of the head in the line of duty whilst working for Victoria Police. Thirty-seven bullet fragments would stay lodged in his brain. These were not the only challenges Ron would experience in his lifetime. He was bitten by a man claiming to have HIV, he was asked to recover a baby's corpse from Williamstown Beach and he witnessed the everyday tragedies we experience as police. Victoria Police number 18343's 40-year Victoria Police career was particularly eventful and unfortunately very damaging.

Despite all of these events, Ron's long battle with post-traumatic stress injury, or as you will hear me call it, PTSI, truly began when he was assaulted by a notorious criminal outside a Werribee nightclub in 2008. The offender threatened to, and I quote, 'get a gun and do a better job than Kai'. This was a reference to the man who had murdered a security guard in 1984 before opening fire on Ron's police car in Beaumaris, where he would almost die. He was the man responsible for those 37 bullet fragments in Ron's skull.

During 2017, and as a result of Ron's declining mental state, Yogi came into Ron's life courtesy of the Defence Bank's Defence Community Dogs program and Ron being eligible as a previous serving member of the army reserves. Yogi the chocolate labrador would change Ron's life. Yogi was rescued from a pound and sent to Bathurst prison in New South Wales, where he was trained by Benni, a prisoner serving time for drug offences. Benni met Ron a few times to understand his medical issues and his triggers, and he trained Yogi to respond to Ron's triggers when they arose. I will talk about the defence dogs a bit more later. Yogi was taught to sense Ron's emotions, including turning the light on at night when he was having night terrors, putting a paw on him when he was anxiously bouncing his leg and asking him to play ball when Ron's mood dipped.

Before getting Yogi, Ron attempted suicide five times—something he was very open about. He was using 17 psychotropic drugs daily to curb his PTSI symptoms and had been admitted to hospital many

times, where he would stay for a week or two. Although Yogi was funded through the Defence Bank, the ongoing costs of maintaining Yogi were met by Ron. To alleviate the financial burden Ron applied to have Yogi's costs claimed through WorkSafe as a legitimate medical expense related to his workplace-induced PTSI. He said, and I quote:

I figured I should ask for WorkCover to pay for my dog, because he is my medication.

Ron made a claim to WorkCover and was optimistic, for he described there was head nodding at the meeting he had with WorkSafe. But three weeks later he received a letter in the mail—a rejection of claim. They cited a lack of evidence behind companion dogs for this decision. But Yogi is not a companion dog, he is a trained psychiatric assistance dog. Then, in the words of Ron, and I quote:

Imagine my surprise when, I get woken by my Barrister Fiona Ryan by phone ... She's at the Pre-hearing Conference between barristers for both sides. WorkSafe have walked in with a prepared offer. A set cash amount as recompense for past expenditure, nothing going forward, closure of the claim, and a Non-Disclosure Agreement.

Needless to say, what questionable behaviour by WorkSafe. In typical Ron fashion, he made it clear that he would not be agreeing to any NDAs under any circumstances. After much back and forth a deal was struck. WorkSafe agreed to pay for Yogi's expenses from the day Ron brought him home until the day that Yogi would cease to perform his duties. WorkSafe also agreed to cover the costs for a replacement dog as long as that dog came from an accredited provider. Ron's lawyer, Kathy Wilson, said, and I quote:

On the day before it was listed, WorkCover offered us everything Ron was asking for (which he accepted) so there was no reason to proceed and [therefore] WorkCover avoided the precedent.

What a coincidence. Yogi's law was supposed to have been formally created, but due to settling out of court it was not. This now means if you do not go down the path of seeking to be the test case in court, you must access WorkSafe's non-established, new or emerging treatments and services, or NENETS, policy to seek compensation for psychiatric assistance dogs costs.

In concluding Ron's story, though, I warn that it does have a bittersweet ending. Ron passed away earlier this year from cancer. He came here to Parliament three weeks before he passed to talk about getting funding for the Defence Community Dogs program in Victoria. This will allow more dogs to be available to those with mental health issues like Ron. I pledged that I would do everything I could to make access to assistance dogs easier for people with mental health issues, especially PTSI. In fact I have made budget submissions to the government each and every year since I have been elected to have the defence dogs program funded in Victoria. I will be doing the same this year, and I hope that this vital and evidence-based program is finally funded.

Whilst my motion today does not refer to the Defence Community Dogs program, I just once again want to take the opportunity to promote its triple benefits. It is a win for the dog, who was a rescue dog; it is a win for the inmate, with a zero per cent recidivism rate for those who take part in the dog training program; and it is a win for our veterans. Having it funded would provide for a new stream of trained dogs, and it is my hope that it would be expanded to all frontline workers.

In his last act of selflessness before he died, Ron asked Benni if he would like to take back Yogi when Ron passed away from liver cancer. Benni of course said yes. Benni, who now runs a successful plumbing business, has taken Yogi to his home in New South Wales, where he is enjoying his new life. Such was the greatness of the man and his commitment to the cause that Ron was also recently awarded an OAM, a Medal of the Order of Australia, for his work in mental health. His story gives me goosebumps every time.

Post-traumatic stress disorder is known by many who suffer from the condition as an injury, hence the acronym PTSI. It is less stigmatising and recognises the biological impact that PTSI can have on someone. PTSI can rear its ugly head months or years after an incident or series of incidents. It can consist of night terrors, aggressive or emotional outbursts, trouble sleeping, flashbacks, mood swings,

trouble concentrating, anxiousness, guilt and suspicion. On terminology, I understand that the government cannot just decide to change the term from PTSD to PTSI. What I am asking through this motion is that the government will acknowledge the term 'PTSI' as the preferred option by sufferers and use it where appropriate. Code 9 spokesperson Mark Thomas said, and I quote:

Having it renamed PTSI would be massively helpful. Far too many first responders do not recognise it as an injury ...

Having worked on the front line I found it unsurprising but still worrying that our emergency service workers experience high rates of PTSI. According to the Australian emergency services, PTSI rates are directly impacted by dose, or the number of exposures to potential traumatic events. Routine and repeated exposure during police work means the risk of PTSI in our police is as high as 20 per cent, far beyond the 1 to 3 per cent prevalence in the general population.

I would also like to make it clear that my push for access to claims for psychiatric assistance dogs is not at the expense of other therapies. These dogs are not intended to replace any evidence-based psychotherapies, but to complement them. What works for some may not work for others. My contribution is also not intended to make the case for psychiatric assistance dogs, as I do not feel the need to; however, there are several studies that are encouraging of their use. Ron's anecdote is obviously an incredible one, going from 17 psychotropic drugs each day to one furry friend around the clock. Further, a recent study by mindDog Australia, who supply and train dogs for people with psychological issues, found that assistance dogs, and I quote:

... decreased the use of psychiatric or other healthcare services in 46 per cent of participants ...

I know most of you will not be surprised by Ron's experience with WorkSafe, as their conduct has been under question for some time. Ombudsman Deborah Glass has on two occasions, in 2016 and 2019, handed down scathing reports regarding WorkSafe's dealings with complex claims. These usually require longer term cover and are generally more costly to WorkSafe. Reflecting on 500 WorkSafe complaints, Ms Glass in her 2016 report said, and I quote:

... we found cases in which agents were working the system to delay and deny seriously injured workers the financial compensation to which they were entitled.

In 2019 Ms Glass said WorkSafe had not learned from the 2016 report and that changes still needed to be made to WorkSafe's culture, despite the state government agreeing to the 15 recommendations of the earlier report. In the latter report she said, and I quote:

... this is the first time I have launched a fresh investigation into the same issue—

and that WorkSafe complaints were and are particularly painful. She further said, shockingly, that, and I quote:

If anything, the evidence strongly suggests that much of the impact of my 2016 report has been to drive these practices underground. Agent staff were told to be careful what they put in writing—in case the Ombudsman sees it.

The 2016 ABC *Four Corners* story *Injury to Insult* affirms that these problems are ingrained. Michael Tanner, principal at National Compensation Lawyers, told me, and I quote:

An injured workers journey through the Victorian Workcover system is difficult, tiring and traumatic ...

where—

... legislation and corresponding Regulations are confusing and ever changing.

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He says this unnecessarily creates a greater reliance on lawyers to fight for the most basic of rights, which often leads to protracted litigation and significant stress to some of the most vulnerable people. Further, are his comments, and I quote:

The guidelines associated with such funding remain difficult to interpret and restrictive, further the processing of such a request and time taken to determine such averages approximately 9 months.

To reiterate the issue, if someone is eligible for WorkCover as a result of psychological injuries and they would like to access their NENETS policy for a treatment option, such as an assistance dog, they will find that they, one, will not have a policy to look at to know if they are eligible for compensation payments or not; two, will not be able to rely on previous decisions to base their case on, because there is no precedent; three, will need to engage legal representation at significant cost because they will need to engage in the legal process to prove the evidence behind assistance dogs, despite others already having presented this evidence in the past; and, four, will likely wait many months for the outcome of their claim. This is a traumatic and risky process for people who already have mental and physical injuries.

To remedy this I am asking the government to do two things: firstly, review its NENETS policy to ensure that future claims for canine and equine therapies treating PTSD are considered without delay and not unfairly denied in the future; and, secondly, ensure that WorkSafe's NENETS policy is publicly available and notes available compensation for different types of treatments and services, including the criteria to make such a claim. This will allow transparency for those seeking claims and for their legal representatives.

My office has canvassed the issue and discussed it with many interested parties. This motion is supported by the Community Advocacy Alliance, including former police commissioner Kel Glare; the Blue Ribbon Foundation; Maurice Blackburn Lawyers; National Compensation Lawyers; Code 9 representatives, comprising many current and former police officers; Ron Fenton's family and friends; and many, many others. I have also spoken to many victims of this dreadful injury, and every single one of them have supported my campaign for this change. I would like to thank Kim, who is still fighting for WorkCover; Nicole and her dog, Scout; Pat and his dog, Lucy; Jill Dyson; and advocates such as Kath Maudsley and Glenn 'Dutchy' Holland, who began and continues to drive the great work of the Fighting PTSD VicPol campaign.

In conclusion, I would also like to thank Minister Stitt and her office, especially Matt, for their cooperation. As a non-government MP it is not often we raise an issue and the minister immediately recognises that what you are saying really is an issue, but you did on this occasion and I thank you for recognising this. It is not glamorous. It is not a populist issue, but it will help people who are really, really suffering. Lastly, I know Ron is up there watching, as will many of Ron's supporters be online and many other current and previous emergency service workers with PTSD as well. Ron wanted Yogi's law mandated within the system, and it is now at the chamber to make this happen. I commend this motion to the house.

Ms WATT (Northern Metropolitan) (12:53): At the outset I want to thank Mr Grimley for bringing this motion to the Council and I want to take a moment to acknowledge his continued advocacy on important matters such as this, and can I extend my condolences to Ron's family and Yogi. I understand that the Minister for Workplace Safety has indicated that she has committed and is committed to working closely with Mr Grimley on this matter. Providing fair compensation and support to injured workers is an absolute priority for the Andrews Labor government. That is why we have recently passed several important reforms through this place, such as provisional payments reforms and arbitration reforms. Every claim for compensation needs to be taken seriously because it is not just a claim; it is an injured worker who needs support, a family asking questions and an uncertain future. We continue to monitor trends in claims, services and treatments provided to injured workers.

Like this government, I am very passionate about improving workplace safety in our state. It is an area that I have worked in before. I have spent years talking directly to workers who were navigating the

system. I have seen firsthand the inadequacies of the WorkSafe system to respond to trauma in the workplace, especially for those with existing trauma. Fifteen years later, while the system across our nation certainly is not perfect, it has come a long way in this state, with most of that thanks to this government.

While assistance dogs are a relatively new concept for the treatment of post-traumatic stress injury (PTSI), we have always demonstrated our openness to considering how we can make the WorkSafe system better, how we can provide better support to injured workers. All workers should make it home at the end of the day safe and without injury, but unfortunately we know that this is not the case. We know that in the event of an injury at work Victorian workers rely on the WorkCover scheme to support them through their recovery and return to work. But as much as we focus on the prevention of workplace accidents, tens of thousands of Victorian workers sustain an injury at work each year. Psychosocial hazards in the workplace can have a real and devastating impact on not only victims but all those around them, whether family, friends or colleagues.

As Mr Grimley notes in his motion, WorkSafe does currently have a policy for non-established, new or emerging treatments and services (NENETS), a policy which is publicly available on its website. Requests for assistance dogs for injured workers diagnosed with PTSI are made via this policy. WorkSafe agents can currently consider paying the reasonable costs of new and emerging treatments and services, including requests for psychiatric assistance dogs, to treat post-traumatic stress disorder in some circumstances. These guidelines support WorkSafe agent decision-making and provide clarity on the costs that WorkSafe considers reasonable. For a request of this nature to be considered by a WorkSafe agent a practitioner must provide clinical evidence of the safety and efficacy of the non-established, new and emerging treatments and services. Between 2019 and 2021 over 1000 requests for non-established, new and emerging treatments were made, and 735 were approved.

At the 2018 election the government committed to introducing legislation covering provisional payments for mental health WorkCover claims for every Victorian worker. We did what we said we would do, with the Parliament passing this legislation earlier this year. The provisional payment scheme commenced on 1 July this year. These landmark reforms provide injured workers with access to payments for medical and like expenses for up to 13 weeks from the date they submit a claim. It is a measure to give workers certainty of immediate support whether a claim is accepted or not, encouraging workers to put their hand up for help and seek the treatment that they need. It ensures there are no financial barriers to a worker accessing urgent medical treatment and recognises the importance of early intervention in ensuring a successful return to work and a better recovery. With more workers seeking help for mental health injuries it is vital that we remove barriers that prevent people from accessing care and support as soon as they need it.

Mental injury claims have grown significantly in recent years and are expected to account for a third of all workers compensation claims by 2030. The nature of these claims can be more complex and take longer to determine than physical injury claims. Before this reform, workers could wait up to five weeks before receiving payments to access treatment or support, with some stuck with stressful out-of-pocket costs. By covering costs such as GP visits, psychiatrist and psychologist appointments and medication, the provisional payments scheme removes financial barriers that delay workers getting the care they deserve. This scheme is an expansion of the government's successful pilot providing provisional payments to police and emergency services workers and volunteers. This work is yet another example of the government's preparedness to work with our frontline emergency services workers and to strengthen the support they receive. The pilot for these workers recognised the risks and occupational trauma that our hardworking police and emergency workers and volunteers are exposed to.

Another example of our Labor government's commitment to improving the system that supports injured workers is our arbitration reforms. We are delivering on our commitment to improve the process for resolving workplace compensation disputes in line with the Victorian Ombudsman's report regarding complex worker compensation claims. In May this year we passed legislation to introduce

a new arbitration function within the Accident Compensation Conciliation Service. This reform will provide a low-cost, timely and effective alternative to the court process for injured workers to achieve a fair resolution to disputed workers compensation claims. It will simplify the process for injured workers to dispute an adverse decision, mitigating the risk of secondary mental injuries or exacerbating a worker's existing mental injury.

WorkSafe has a range of initiatives in place to support employers and employees to address the work-related factors that impact on the mental health of Victorian workers. WorkSafe's WorkWell program is a five-year program delivered in partnership with the Victorian Department of Health to promote mental health and prevent mental injury in Victorian workplaces.

The \$50 million WorkWell program has been extended to 23 December 2022 to mitigate the impacts of the COVID-19 pandemic on the funded projects. There have been over 10 000 registered users of the WorkWell toolkit. WorkSafe also has a dedicated psychosocial inspectorate team which focuses on compliance within the occupational health and safety legislation with respect to psychosocial hazards in workplaces. WorkSafe is also recruiting a number of psychological health and safety specialists for the newly established psychological health and safety specialist unit, which will provide additional expertise to the inspectorate and investigative teams, and they are further building capability across the inspectorate to address workplace bullying, occupational violence and sexual harassment. WorkSafe has a wide range of non-statutory guidance material available to provide duty holders with detailed information about how to prevent and respond to workplace injuries to psychological health.

Psychological health and mental health is something that I have spoken about a bit in this place. This Labor government has sharpened our focus on improving mental health for all Victorians through the Royal Commission into Victoria's Mental Health System. The royal commission's final report was handed down on 2 March, and it sets out a bold vision that will serve as our blueprint for delivering the biggest social reform in a generation. In response to this royal commission, the Andrews Labor government handed down the biggest ever single investment in the mental health system in the nation's history: a historic \$3.8 billion to start rebuilding our mental health system from the ground up. In this, there are genuinely landmark reforms to our mental health system, groundbreaking work that will significantly improve mental health care in this state—\$3.8 billion to build the system from the ground up, all based on the experiences of the patients, clients and their families, those who have experienced the worst of a broken and outdated system. Indeed we saw this funding laid out in the 2021–22 state budget.

With the adult population spending about a third of their life at work, there is a vital role for workplaces in improving the mental health of Victorians, because this is a government that cares about mental health. For us, mental health is not just a talking point; it is something we are doing the hard work on, investing the money and rebuilding the system, and I am very proud of this. I am very proud to be a part of a government that walks the walk, not just on mental health but of course across a wide range of issues.

As I have already indicated, the government is undertaking significant reform to improve workers' mental health and give them the confidence to seek support if they are struggling, but we also know that there is more work to be done. We are always looking to do better, to prevent more injuries, to provide better support and to help injured workers get back to work. That is why we are supporting this motion, and I am confident that we will be able to work together closely on the issue of psychiatric assistance dogs to treat post-traumatic stress injuries.

Mr O'DONOHUE (Eastern Victoria) (13:03): I am pleased to rise on behalf of the opposition and indicate the opposition's support for this motion, motion 622. It is a very important motion because it goes to the mental wellbeing of those who have served our state and our community, who have put

themselves at risk but have suffered as a result. The motion highlights some of the clear challenges and deficiencies in the way the system currently operates. Point (1)(d) says:

it can take approximately nine months to approve a psychiatric assistance dog claim to treat post-traumatic stress injuries ... as opposed to a 27-day average for general mental health claims and a seven-day average for physical injury claims ...

And point (e):

WorkSafe have previously approved psychiatric assistance dogs to treat PTSI; however, this policy does not hold precedent and is not legislated, meaning that each claimant must undergo an extensive and exhaustive legal process, causing additional financial and emotional stress ...

That is just deeply disappointing and simply not good enough—that here we are, after all the talk, as Ms Watt referred to, from the Royal Commission into Victoria’s Mental Health System and the billions of dollars, talking off the shopping list of government priorities, but a very simple process and a very simple policy to be implemented has not yet been done and as a result frontline responders, who have suffered and have been injured, are being denied the treatment and the benefit of a therapy companion animal.

Now, this is not a new topic, and I am pleased that at the last election, when I was Shadow Minister for Police, we had a policy to expand the companion therapy dogs program to the Tarrengower and Langi Kal Kal prisons and to provide resources to enable that to occur. Whilst the government has taken some steps to consider companion therapy dog training at our prisons, it has not gone as far as it could, because there is a clear demand for these services. As Mr Grimley highlighted and referred to, the story of Yogi and Benni from the Bathurst prison and the bond that they share, and they share again now with the sad passing of Ron, is a remarkable story. It is a beautiful story, and it is a story that could be replicated many times over if just a few dollars from those billions of dollars that Ms Watt referred to were allocated to this very important policy initiative—an initiative, as I mentioned, that was committed to by the opposition over three years ago and that the government has had now many years to replicate.

Now, Mr Grimley referred to Mr Fenton and his remarkable story, and I just want to quote extensively from an article by John Silvester, the well-known *Age* journalist. John Silvester has written many articles about Ron and about Benni and about Yogi, and I have picked the one dated 25 May 2018, ‘The crook, the copper and their four-legged mate’, which I think succinctly sums up the points that many of these stories, and those written by other journalists, make. It says:

The policeman and the crook had never met, yet they are linked by one act of random bastardry that nearly cost the cop his life—and another of unexpected humanity that certainly saved it.

Ron Fenton has considered taking his own life ... weighed down by physical disabilities from his near-fatal shooting and the mental scars of post-traumatic stress.

His sleep was shattered with vivid night terrors that 17 psychotropic drugs could not control. In the dreams he relived his near-drowning—when working in Search and Rescue, he was caught under a log in a fast-flowing river—or when he was shot in the back of the head with a military-grade rifle and then left on the road as life slowly drained from him.

Meanwhile, 800 kilometres away in Bathurst Prison, Benni—an inmate serving 18 months for drug offences—was training a chocolate Labrador as a trauma dog.

When Benni learned “Yogi” was going to a damaged cop, he asked about Fenton’s condition. “He was given a rundown of my problems and would wake up and mimic my symptoms,” Ron says.

Benni trained Yogi—a rescue dog that faced being put down—for six months. “It was one of the best things I have ever done. You have all this time on your hands and you can use it to do some good. They should offer [the program] in every jail.

“It is a win-win,” Benni adds. “You save the dog, help a veteran with psychological problems, give the inmate a sense of purpose and give back to the community.”

The article goes on to say:

One night in a motel Ron was heading towards a traumatic nightmare when Yogi jumped on the bed to wake him. It has been the same ever since; Yogi sleeps in Ron's room and gently intervenes before the terrors strangle his night.

Yogi now pushes his paw on a pressure pad to activate a bedroom lamp before waking the former policeman, so he is not traumatised by the dark.

"I doubt I would be here if it wasn't for Yogi. I'd be under the ground. He is with me 24/7."

The story goes on to describe more about the minimal cost of this program and the enormous benefit it delivers.

So this is a very sensible motion. It is eminently affordable, and I have never been able to understand, over the last three years, why we have these roadblocks, why we have these challenges. Again, as Mr Grimley mentioned, there is zero recidivism, that I am aware of, of those involved in the Bathurst program in training dogs, and Benni is a great example: he has got on with his life, is running his own business and has made such a success. That success could be repeated many more times over—the benefit to the animal, the prisoner and the frontline veteran who suffered these injuries. The government should expedite it; they should deal with these issues and fix it as quickly as possible.

Before concluding I just want to say what a privilege it was to attend Ron Fenton's living wake, which was held on Monday, 22 February 2021. I had never attended a living wake before, and I was apprehensive, I must say, about attending such an event. But it was fantastic to be there with so many current and former members of Victoria Police and others who have done so much to protect our community. Ron was in fantastic spirits that day, and it is a tribute to him that he was prepared to put on such an event. It was a very happy event with many laughs and many stories told.

I was also privileged to attend Ron's funeral on 19 April, after his passing on 13 April this year. The Victoria Police chapel is a remarkable part of the Victoria Police Academy. As most members I am sure would know, it was a Catholic seminary before it was in the police academy, and the chapel has been retained in all its beautiful glory as a place to celebrate the passing of respected police members as well as for graduation ceremonies when the weather is not good. The chief commissioner, Shane Patton, gave a fantastic address, as did members of Ron's family, celebrating his life, celebrating what he achieved and celebrating his courage. It was a passion of Ron's that the benefits of dogs such as Yogi be available to as many members as possible who have suffered similar injuries to Ron's.

It is greatly disappointing that we are at this point where Mr Grimley had to bring on a motion to bring it to the government's attention. I am very pleased that the Minister for Workplace Safety is in the chamber today. It is pleasing to hear that she has taken an interest in this issue. I would implore her to do whatever needs to be done to ensure that this program can be rolled out as broadly and as widely as needed and to use the resources of our prisoner population, which will help address the ever-growing recidivism rate in Victoria. It is just one other tool, one other way that we can help those who have helped our community so much and given so much and enable them to continue with their life as best as they can.

Mr MEDDICK (Western Victoria) (13:13): I will keep my contribution very brief, as I am conscious that there are others who do wish to contribute. I thank Mr Grimley for bringing on this motion and for his continued advocacy on this particular issue. The assistance that post-traumatic stress injury sufferers receive from companion and assistance animals is very real and very significant. What we are hearing today and what we will hear from other speakers is how regulation—when it boils down to it—has failed to achieve just outcomes. Today on this very important motion we have an opportunity to remove any issues that allow bureaucracy to get in the way of common sense. Supporting this motion will be relieving PTSI victims of a financial burden and supporting their ongoing mental, emotional and physical health. The caring relationship between human and non-human animals is vitally important to both, and in the case of support animals we see in a very obvious way just how important those relationships are.

The English poet John Donne said, 'No man is an island'. When we refer to this motion, often those suffering from PTSI do not feel comfortable speaking to other people. They suffer in silence, and this leads to terrible outcomes. So their support or companion animal becomes the most important being in their life. They are not just their friend, they are their confidant. They are there at their lowest points, and they are there to give them comfort when they are suffering from all of those things, those symptoms, that Mr Grimley put earlier on. They literally become the most important being in their life, and this is why I will be supporting Mr Grimley's motion. I find it unfathomable that those who are suffering have been denied access to funding to support and provide care for that special friend, that confidant, the one they know that at the end of the day they can trust. I commend the motion to the house.

Ms PATTEN (Northern Metropolitan) (13:15): I too am very pleased to rise to speak to this motion. I had the privilege of meeting Ron Fenton and Yogi a year or so ago. Not only did Yogi bring joy to Ron and assist Ron; he actually really could fill a room. He was a really wonderful—I do not know if you can say it—charismatic dog. He really was—

Mr Grimley: Beautiful eyes.

Ms PATTEN: Gorgeous, gorgeous eyes. I think, listening to the story about the background of the connection between Benni and Yogi and Ron, it has got all the makings of a great film. I was just thinking while I was sitting in the chair who would play Ron. I am putting my hand up for Sam Neill for Ron; I think he would be happy with that. But it also reminded me of another film, where we saw the beautiful work that dogs can do as therapy. I think I would commend a film called *Backtrack Boys*, which again showed that relationship that dogs and people can have and the therapeutic effect—nigh on medical effect—that they can have. It really is wonderful to see, and I am really pleased that Mr Grimley is advocating on this issue. I am pleased to see the minister is in the chamber as well, so I certainly hope that we do see moves in this area.

We have seen dogs being used in a whole range of areas. We are seeing assistance dogs being provided to victims and witnesses in the courts now. We are seeing dogs in the prison system, and certainly Mr O'Donohue referred back to the Bathurst trial. We are seeing that dogs in the court system have actually had a really positive impact particularly on the victims of crime, where they can calm them and they can reduce the trauma of the whole experience. In actual fact it has reduced the instances of retrials, so it has had a very clear impact in that area.

But directly to Mr Grimley's motion about those that are suffering from post-traumatic stress injury (PTSI), we know that our frontline workers are really over-represented in those statistics and we need to be doing everything to prevent that. But we also need to be doing everything that we can to look at those new and emerging treatments and services, and in many ways WorkSafe is one of the perfect places to be doing that. Certainly I have raised this here, and just in the brief few minutes I have left I would just also like to raise some other emerging therapies, and those include MDMA. Now, someone said to me, 'That's like puppies and pingers', this speech, but it is absolutely not. These are, absolutely, trained assistance dogs who are trained in the way that we heard Benni had trained Yogi—extraordinary. And when I talk about MDMA I am talking about a pharmaceutical-grade drug in a controlled, clinical setting with a therapist, so it bears no relation. It is working and we have the evidence, yet every time we have actually tried to see this new emerging therapy being used, particularly for PTSI, it has been refused by WorkSafe and many other organisations.

In the US they are in stage 3 trials for MDMA therapy for PTSI, and that is going to the Food and Drug Administration at the moment. It is running out of the University of California plus the University of New York. It is showing extraordinary results, single-treatment results—one treatment and they are getting results. They are literally curing PTSI through this substance. I implore the government that we do look at these non-established, new or emerging treatments and services, NENETS, that Mr Grimley has raised today in the like of therapy dogs. But I would certainly like to see other treatments that are also doing this. We have got 35 clinical psychiatrists in Australia now

seeking to use MDMA for this exact thing. I commend this motion, and I hope it opens the door for new and emerging therapies, particularly for people with PTSI and particularly for our frontline workers.

Mr LIMBRICK (South Eastern Metropolitan) (13:21): Health care is highly regulated in Australia. When it comes to approved therapies, we have the Medical Services Advisory Committee, the Pharmaceutical Benefits Advisory Committee and the Prostheses List Advisory Committee that all make recommendations regarding items on the medical benefits schedule, the pharmaceutical benefits scheme and the Australian Department of Health's prostheses list. Only interventions and medications approved by the Medical Services Advisory Committee and the Pharmaceutical Benefits Advisory Committee are funded by Medicare. Some would argue that all of this regulation ensures that only safe and effective medicine is provided in Australia. No doubt that is true to an extent, but it can also stifle innovation. It can take a very long time for low-risk and highly effective treatments to navigate the red tape of the health bureaucracy. We are about to see how ineffective and overcautious this approach is as the federal government rolls out the new prescription model for nicotine vaping, another innovation.

WorkSafe Victoria and the TAC have a great opportunity to embrace innovation through the non-established, new or emerging treatments and services policy. This is clearly a significant challenge to ensure that only appropriate and effective therapies are funded. However, there are two key risks: firstly, funding and providing treatment that is ineffective or potentially harmful and, secondly, denying treatment that later turns out to be safe and effective. Research published in the *Australian Health Review* in 2020 showed that between March 2017 and March 2019 it was far more common for effective treatments to be denied than for ineffective treatments to be funded, with 21 effective claims being denied and five ineffective claims being granted. Mr Grimley has focused on one particular form of treatment with the example of Ron Fenton and his dog Yogi that provided immense benefit in alleviating his symptoms of work-related post-traumatic stress injury. The research paper that I previously referred to closed with this comment, which is relevant to the debate today:

At this stage, the database of 539 unique entries has not been made available to external clinicians or researchers, but a process to enable this is currently being considered to better facilitate transparency and to enable surveillance and outcomes research, as well as mediation of disputes over treatment options.

This goes to the heart of Mr Grimley's motion. While the example of Ron and Yogi highlights the significance of canine therapies and why WorkSafe should update their policy on this, a clear and transparent approach more broadly should be able to reduce the number of effective therapies that are denied and reduce the need for injured people to engage legal representation in order to access effective treatment. The Liberal Democrats will support this motion.

Mr ONDARCHIE (Northern Metropolitan) (13:24): I rise today to speak to Mr Grimley's motion about support for frontline emergency services workers and their mental health, and I want to put on record our thanks to Mr Grimley for bringing this to the table today. I am also hopeful that the government will get right behind this. I agree with point (1) absolutely, that frontline emergency services people have a higher rate of mental illness as a result of their work.

I have many, many friends in the job—for those who know what that means—many friends in the job, some at very high levels with braid. And I have to tell you those close mates of mine that have been mates for such a long, long time have done it pretty tough. One of my mates, who went into the academy at about the same time that I headed off into a different part of my career, as Mr Grimley would know, was a two-oh, so he would know the sort of years that we are talking about. He had a pretty tough life in the job, a stressful life. He had times when he had to arrest child sex offenders, attend fatal motor vehicle collisions and deal with domestic violence and the breakdown of his own relationships.

Bob was a good mate. He came around to my house one night for a chat and a beer and chatted about how tough things were, but he gave me every confidence that things were going to be okay. The next

day he took his life. I vowed at that time through the sadness of being at his funeral, which the police were very kind to get around and do some important things with, that my other mates in the job I was going to keep an eye out for all the time. I have mates that had to attend the tragedy on the Eastern Freeway and had other sadness, such as when a dog attacked an elderly gentleman and the gentleman passed away, and my mate was the first copper on the scene. I made a point of taking the morning off work the next day and grabbing him and saying, 'Come over for a cup of tea and a biscuit and have a chat', and he sat at my house and emptied his heart. I have got many, many other examples as well of people in the job as fireys, as ambos, as hospital workers, as coppers, and I think it is incumbent on us to look out for them. That is why I am grateful that Mr Grimley has brought this motion to the house. I will not go through the details of it because he has done that so well today.

Using canines—assistance dogs—and equine therapy is really important. As colleagues know, I am an ambassador for Guide Dogs Victoria and do a lot of work with them and their assistance dogs. In fact we have our own guide dog in our family, Nala, who has been here to Parliament House on a number of occasions. She gets around the community and talks to people; it helps—the work she does as an assistance dog and an ambassador for Guide Dogs Victoria.

I just want to say that this is one of the most important things we could be doing today. I am hopeful that Minister Stitt, who is here at the table, will get behind this. I am hopeful the government will quickly move to less talk and more action on this to get behind the tragic and high rate of mental illness in our frontline workers. I support the motion, Mr Grimley. Thank you so much.

Dr CUMMING (Western Metropolitan) (13:27): I rise to speak in support of Mr Grimley's motion. The Department of Veterans Affairs has a psychiatric assistance dog program, and under this program the DVA will pay for the supply of a fully trained and registered psychiatric assistance dog. You can request reimbursement for the costs associated with maintaining the welfare of that dog, which includes annual maintenance costs of up to \$573 per quarter and yearly vet costs, including vaccinations and medication, pet insurance and food, and unexpected vet bills and gap payments. In the event that the assistance dog has any unexpected vet bills or you are out of pocket due to the difference between those bills, the DVA will reimburse that amount. The DVA also provides the actual dogs. One part of the DVA program is that they only provide this financial assistance for dogs that are part of their program.

I fully support that this government, either under WorkCover or under their push from the Royal Commission into Victoria's Mental Health System, should provide this kind of financial support. Seeing that the DVA can do this, there is a way forward. The government can easily pick this up, easily replicate it and easily start it, even tomorrow. They should remove all the barriers. WorkCover should not make it difficult for people to provide this kind of assistance. It has been said in this place before that when somebody is in need, they should just get that assistance straightaway. There should not be hurdles; there should not be barriers. It really should be a simple process. So I commend Mr Grimley on bringing this motion to this house today, and I believe that this government should take this wonderful suggestion on and do it tomorrow.

Ms TAYLOR (Southern Metropolitan) (13:30): First of all, I would like to thank Mr Grimley for raising this very important matter. I really appreciate it. Certainly I know that the Minister for Workplace Safety has indicated she is committed to working closely with you on this issue as well, which is always good to know, because you know where the motion is going to head from today. So that is also very positive, and certainly it is very important to us to provide fair compensation and support injured workers. This is an absolute priority for our government, but I am reiterating it because it is very close to our hearts. But it is not just about the emotion and the sentiment; it is also about actions that we have taken to carry this through, and this is why we have recently passed several important reforms through this place, such as the provisional payments reforms and arbitration reforms. I believe Ms Watt spoke to these particular reforms, so I will not go further on that issue, but suffice to say it certainly reflects our dedication and commitment to injured workers—and I think that goes without saying as well.

Obviously every claim for compensation has to be taken seriously, and this goes without saying. I have seen up close some injured workers myself, and I will not go into specific examples, but suffice to say we are dealing with human beings. And I am not stating that to be patronising or condescending in any way. I am just stating that it is, at the end of the day, very personal for them and it is very moving and very difficult and can be a very challenging experience, and obviously making the process—for want of a better word—as comfortable and supportive as possible is certainly an optimal outcome, because at the end of the day it is not just a claim, it is an injured worker who needs support.

We do continue to monitor trends in claims, services and treatments provided to injured workers—this is certainly not a static space but a very active space—with good reason, because in conjunction, and I think noting the relevance of what we are discussing today, we should continue to always improve and ameliorate the way that such claims et cetera are handled, with good reason.

I will close on this argument: whilst assistance dogs are a relatively new concept for the treatment of post-traumatic stress injuries, we have always demonstrated our openness to considering how we can make the WorkCover system better, how we can provide better support to injured workers. So I think today is a very healthy discussion and certainly consistent with not only the aims but the actions of our government.

Ms SHING (Eastern Victoria) (13:33): It is a real pleasure to rise today to thank Mr Grimley for bringing this motion to the house. It comes as no surprise to perhaps anyone in this chamber or indeed anyone who knows me that I am an ardent fan of the benefits of pet ownership, pet companionship, and also the work that dogs and indeed other animals can do in achieving significant benefits for us as their humans and also as the recipients of their attention and unconditional love. We know from vast experience across a range of different jurisdictions that dogs can achieve a power of good from creating a sense of connection, validation and self-worth in some of our most vulnerable and priority communities. Ms Patten has referred to Aboriginal Indigenous communities and also to people within our custodial system, and the prison pet partnership program is something which I have been a very big fan of, having owned greyhounds which have been through that program.

I want to also single out the work that is done within the court system to provide immediate assistance to those who are really struggling in formal and often very isolating and intimidating circumstances. Particularly in the Children's Court and for victims of crime the presence of dogs can be immediately calming and immediately reassuring, and this has a profound and indeed very relevant impact on the administration of justice. It stands to reason, then, that work is undertaken in being better at understanding work-related injury and indeed understanding the way in which that can be addressed, such that recovery and rehabilitation are placed at the forefront of our ongoing assistance to those who need it most, and those who have been injured in the course of their work are given every opportunity to access the very same supports which animals, and dogs in particular, can provide. It is axiomatic therefore that I stand here today in support of this particular motion and join with others who have been very vocal in supporting the role of dogs in a range of health-related initiatives, including, particular to this motion, post-traumatic stress injury.

Trauma comes in many, many forms, and it is persistent and it is devastating. It often cuts lives short and sits alongside a litany of other health-related concerns. Treatment is hard, it is expensive and it is isolating. It will often not endure, and it is often not durable. This is where animals come in and provide at least for the extent of that animal's lifetime the opportunity to provide ongoing reassurance and consistency in the love and the connection which we can find with animals. I am someone who will never be without a dog—at least one dog—in my life. I know that from my perspective they provide me with an enormous amount of balance, they provide me with an unconditional pair of ears and they provide me with constant engagement and connection and also the sense of needing to take care of someone else, which is so important to remaining connected, particularly in times of isolation. This is where I cannot see how it does not make perfect sense to broaden the scope of animal ownership and animal engagement to a setting where injury has been sustained and is causing such trauma, injury and indeed dislocation from the things that make us human and enable us to connect with ourselves, with

the world around us and also with broader things like participation in employment, group community activities and being part of a community overall. So I commend Mr Grimley on bringing this motion to the house.

I am really looking forward to seeing that we continue to modernise our system of the treatment and care provided to those injured in the line of work, which might range from frontline service delivery, including in a pandemic—those sorts of traumatic events and duties which Mr Ondarchie referred to in his contribution—right through to the way in which stress-related injuries in the workplace can be addressed in what might be less apparently violent circumstances. We have a long way to go in recognising the impact that animals can have on our health and wellbeing. I am absolutely determined to continue to avail myself of those benefits. I know that many others in this chamber and this Parliament indeed receive that same love and care and attention from their animals, and I look forward to seeing this being rolled out more broadly so that those in a place of injury, vulnerability and need can access the same sort of care, love and attention to enable them to receive the treatment and indeed the best prospects of success and recovery they deserve.

Mr BARTON (Eastern Metropolitan)

Incorporated pursuant to order of Council of 7 September:

I rise to speak on motion 622 regarding the reformation of WorkSafe's non-established, new or emerging treatments and services policy.

I will be supporting this motion today.

We know that injury in the workplace can mean many things and can have diverse and devastating consequences.

WorkSafe exists to both protect employees in their workplace and provide support to those whose workplace has failed to keep them safe.

This motion will make important reforms that ensure those who need access to new or emerging treatments such as assistance dog or equine therapy are not unfairly denied.

Those who have experienced physical and or mental injuries at work did not seek to injure themselves, yet they will likely live with this injury for the rest of their lives.

Animal therapies can be highly effective complementary treatments for post-traumatic stress injury (PTSI) alongside traditional psychological and cognitive brain therapies.

This motion is about compassion and supporting those who have found themselves in a highly vulnerable state through no fault of their own.

Making these complex claim processes simpler and allowing those with PTSI to access WorkCover for assistance dogs will make all the difference for these individuals.

I commend this motion to the house.

Mr GRIMLEY (Western Victoria) (13:39): Thanks to everyone for their contributions today. It is fantastic. And I really appreciate Mr Ondarchie as well sharing his very personal story—I really do appreciate it. The fact that I mentioned before was that 20 per cent of emergency service workers have some form of post-traumatic stress injury, but I suspect that that figure is a lot higher than 20 per cent. I have always said that we should be doing everything we can to protect those that protect us. When many people run away from danger, they are the people that run towards it, and I think you see that quite often in the news bulletins. In particular on September 11 you saw all the fireys and the ambos and the police heading towards the danger while everybody else was running away. So we need to be doing all we can to help those who help us, and this is just one very small way that we can do that.

We talked about the costs. The costs are around \$2000 per annum to maintain, to upkeep, an assistance dog for a person who is keeping an assistance dog, so we are not talking a lot of money. It is very, very small amount for the significant benefits that come out of it.

Once again, thank you, everybody, for supporting the motion. I do appreciate the government also moving the terminology towards 'injury'—post-traumatic stress injury. I did note that was used quite

often within the chamber by everybody—crossbenchers as well and the opposition—so thank you very much for moving from a ‘disorder’ to an ‘injury’. I really do appreciate it, and I look forward to the day in the not-too-distant future that Yogi’s law is properly mandated.

Motion agreed to.

Business of the house

STANDING AND SESSIONAL ORDERS

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (13:41): I move, by leave:

That so much of standing, sessional and temporary orders be suspended to allow the following arrangements to come into effect at the end of this sitting week and remain in place until 31 December 2021 for the purposes of enabling the house to continue its sittings during the COVID-19 pandemic:

Hybrid sitting

Members may participate in debate remotely using an audio-visual link as follows:

- (1) The Chair must be satisfied that the quality of the audio-visual link allows the Chair to verify the identity of that Member and for the Member to participate.
- (2) A Member participating remotely is not counted for the purposes of a quorum.
- (3) A Member participating remotely shall not vote.
- (4) Members participating remotely may do all things a Member in the Chamber may do, except—
 - (a) chair the debate;
 - (b) refuse leave;
 - (c) take, or speak on, a point of order unless it is taken by another member during their contribution;
 - (d) call the Chair’s attention to the state of the House;
 - (e) call for a division;
 - (f) vote;
 - (g) move a motion for the closure of debate under Standing Order 12.25 or be counted in support of a closure of debate motion under Standing Order 12.25(2); and
 - (h) be counted for the purposes of satisfying an absolute or special majority requirement.
- (5) In order to assist Members participating remotely, the Chair will use a formal call list to allocate the call for each debate where practical and Members wishing to participate remotely may seek the call by—
 - (a) informing their whip, or the whip’s representative, who will inform the Chair in advance—for a Government or Opposition Member; and
 - (b) informing the Clerk, who will inform the Chair in advance—for any other Member.
- (6) When a Member participates remotely, the Chair may exercise all their usual powers to control the debate.
- (7) The Chair is given any additional powers necessary to facilitate the smooth running of the House and/or to address any technical issues, including but not limited to—
 - (a) stopping the clock;
 - (b) returning to a Member’s contribution; and
 - (c) re-ordering business.
- (8) The President may issue formal Guidelines from time to time about remote participation which must not be inconsistent with this temporary order and must be complied with as if they are temporary orders and the President may take any action necessary should Members not abide by the Guidelines.

For the benefit of the house, this has come out of our regular meetings with leaders of the parties and representatives of the crossbench, and with that it is ready to proceed.

Dr RATNAM (Northern Metropolitan) (13:42): I thank the Leader of the Government for moving this motion. I would like to move an amendment, and I am happy to speak to both the substantive motion and the amendment following it. I move:

That all the words in paragraph (3) be omitted and replaced with the following:

- ‘(3) A Member participating remotely shall not vote and a Member that is not in the Chamber at the time of a division may register their opinion on the question by notifying the Clerk in writing of their opinion (either ‘Aye’ or ‘Noe’) after the commencement of the matter in the House and before the President reports the result of the vote to the House, and any such opinion will be published, separately from the results of the vote, in Hansard and the Minutes of Proceedings.’.

In speaking to both the substantive motion and the amendment, I am really glad to see this come before the house. This is the result of a motion that the house agreed to that I moved last week asking the President and the clerks to investigate what is possible in terms of hybrid online participation given the COVID situation that we are in. It is something the Parliament should be thinking about anyway in terms of facilitating participation of members, but given the need to reduce the number of members in the house, particularly should the COVID situation get worse, I think it is really important that the Parliament be prepared to sit in some sort of hybrid and remote fashion.

The advice was really welcome. It indicated and I think illustrated that we can do a lot more than we thought we could and lots more remote and online participation could actually be facilitated without too many legal or constitutional amendments, so that was really welcome. I understand there is still some caution and some concern from different members in the chamber that needs to be worked through in terms of embracing fully the advice that we received from the legal experts, but I am hopeful that this is a step in the right direction and that we can trial more and more things that would allow more online participation.

To effect a true hybrid system what you need is to reduce the number of people in the chamber. You need to be able to facilitate online, remote audiovisual link participation, like so many workplaces across the world have been able to do to allow people—

A member interjected.

Dr RATNAM: Yes, the UK and the Canadian parliaments have facilitated it, the federal Parliament as well. There are methods that have been trialled very successfully across the world. To have a hybrid system like the federal Parliament have trialled very successfully an all-chamber pairing system is actually what is needed to give that full effect. I understand that the government and the opposition are not ready to trial that at this stage. Members know I had another amendment prepared that would give some formality in a temporary order for the crossbench, for example, to develop a pairing system amongst ourselves. I understand that can happen informally, but we want the codification to give us the confidence, given we are all from different parties, and having the rules written somewhere where we could then apply them to ourselves would really help us in a situation where we needed to pair with each other, given the opposition are not willing to pair with the crossbench at this stage.

I had foreshadowed that amendment. I understand there is not an agreement on that yet, and in good faith I understand we are going to have a meeting and that that could progress over the next couple of weeks. I am really hopeful of that. I hope that the chamber will reconsider those options in future, but I think this is a really good starting point, both in the orders that the government has outlined and the amendment I have proposed. It will add strength to the system by allowing members to record their opinions should they not be able to be in the chamber. That could happen should you have to isolate or you get sick with COVID. Unfortunately with the situation at the moment I think more and more of us are going to get impacted, and it is really important that we are prepared. I thank everyone for working towards this outcome, and I really look forward to the trial of these temporary orders. Let us hope we can progress even further from this point.

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (13:48): I am just going to make a few brief remarks about the process by which we have arrived here. I just want to put on record my thanks to the President and to the clerks in the first instance—I do not always thank the clerks, but there we are; on this occasion I think it is well deserved—for the work that was done in some haste on the hybrid model, notwithstanding the fact that there are many other aspects that are still to be discussed.

There was a form of model that we circulated, and I still think there are a number of things that if we do sit in a hybrid format there is still a need to make sure of—that things like rapid testing and so forth are recognised in a constructive way to enable the maximum number to sit here. It is of course the case that most MPs are vaccinated and most staff are vaccinated, and in that circumstance we are safer than many other workplaces where that is still not the case.

However, the model that has been put forward by the President last week and this week is supported by the opposition. It is no secret that we have had concerns about the idea of formal pairing with the crossbench. We think it is very hard to do, and I have been quite clear with others on that. This is a significant compromise—and I accept that from all quarters—that has been proposed by Dr Ratnam. There will be the ability to register, and I thank Bruce Atkinson in particular for some of his points on this about the commencement and the end of the vote. I think that they are important points. I still put on record our caution because we see that there is a risk here that some may on occasion choose not to be in the chamber and in that sense avoid a vote but have the luxury of recording a vote or recording a position, if I can put it that way, and I think that that is a potential risk in the longer run.

I also just put on record our caution about any remote voting. We are actually clearly opposed to that. We think that there are actually constitutional issues with it and there would be real verification issues. We cannot be sure that people are not under some pressure in distant places. We cannot be sure about the details of their exact circumstance, and I think that that is a significant problem for these points. So with those brief comments, we will not oppose those arrangements.

I do make one further point. I actually think that Parliament should return to proper sitting, and I make the point that we can sit alternate days or alternate weeks to the Assembly, even with one day overlap. Perhaps you might do that to enable—

Ms Symes interjected.

Mr DAVIS: No, I just think that in terms of the circulation of bugs and so forth, we are quite conscious—

Ms Symes interjected.

Mr DAVIS: I make the point. That is our preference: a proper sitting of the Parliament.

Ms PATTEN (Northern Metropolitan) (13:51): I would like to rise to speak to the substantive motion but also Dr Ratnam's amendment, which I have to say was a bit of a team effort. I almost feel still out of breath from some of the running around that has occurred over the last 24 hours in finding a compromise position to enable in particular the crossbench to have their opinions recorded when they are not able to be in the chamber to do so, and we know that this is coming. We know that any number of us may find ourselves in a tier 2 spot or a tier 1 spot or, hopefully never, find ourselves COVID positive—or whatever reason. So I think this a good step in the right direction in doing that.

I do not share Mr Davis's concerns about being stabbed with a knife just off camera on the TV screen or something. I think we have managed. Certainly we have seen in the last 12 months in our committee process that we have been able to deliberate on reports. We have been able to conduct ourselves voting even in an online fashion, which has been effective and which has not been questioned.

I thank the clerks, and I read with interest the President's report because I thought that it went a long way into seeing online voting and seeing us being able to operate very effectively if we had to from

remote locations. So I look forward to continuing to work in this. I do want to be able to see the crossbench being able to pair in the future, and I would like to see that in a formal arrangement, not just for us, because I think some of the concerns about the crossbench pairing were that you would not know what was happening. And so in some ways us codifying our processes actually enables the greatest transparency to see that, which in the traditional pairing that occurs between the major parties is obvious because of the remaining members in the chamber. For single-member parties like me and like Dr Ratnam and for Independents like Dr Cumming that is not as clear. With those words, I commend the amendment and support the substantive motion.

Amendment agreed to; amended motion agreed to.

Statements on reports, papers and petitions

PUBLIC LAND ACQUISITION

Petition

Mr HAYES (Southern Metropolitan)

Incorporated pursuant to order of Council of 14 September:

Thank you for giving me the opportunity to speak to e-petition 351, an e-petition raised by the residents of Banyule that seeks to prevent local councils accepting unsolicited land proposals for the acquisition of public land.

The residents draw attention to the recently announced plans of Banyule City Council, who have entered into a public-private partnership with Woolworths, resulting in Woolworths' property development division being allowed to acquire public land in exchange for the provision of public infrastructure, namely building the Rosanna library as an extension of their development.

In April 2021, Banyule council announced a partnership with Woolworths to allow them to expand their already approved development by acquiring another 828 square metres of public land in exchange for building the Rosanna library and then building an even larger supermarket. The additional land they acquired was zoned public use and had not been identified as surplus by council. This deal was done without any transparent public consultation and is setting a precedent which will bind the residents' hands. Woolworths will also be the permit applicant for the combined build and Banyule will have a conflict of interest, being planning authority and a party to the development.

The residents are concerned that this now sets a bad precedent in Victoria, with other local councils now contacting Banyule City Council expressing interest in establishing similar development partnership models across Victoria.

Public infrastructure becomes bargaining power in confidential agreements, impervious to the public eye. These types of deals remove the public's voice on the sale of public land and provision of local infrastructure and remove the ability to freely challenge attached private development.

These situations must draw our attention to the influence private developers have, over and above public transparency, which now puts every piece of public land at risk. I also firmly believe that public land should stay in public hands; once it is privatised it is gone and rarely can any land of equivalent value be bought back.

At the core of these proposals is the misappropriation of valuable public land and the large sums of money private developers will pay to acquire this land. Power, money and the influence of private developers is usurping the democratic process and the interests of the public. The confidential nature of these deals could create pathways for corruption and undue influence within local councils, allowing avenues for the wilful deception of the public. All Victorian local government areas are susceptible to these risks. Unsolicited proposals bring huge risks and one has to only look to the controversial and underhand Crown Casino deal in Sydney as an example of a complete failure of process. The architect of the casino project stated, 'That building should stand there and be a warning to us all. We should look at that building and forever know that we should never let that happen again'.

The petitioners are requesting that the Minister for Local Government take action to prevent local councils from accepting unsolicited proposals to purchase public land and from exchanging public land for infrastructure.

DEPARTMENT OF TREASURY AND FINANCE

*Budget papers 2021–22***Ms MAXWELL** (Northern Victoria)**Incorporated pursuant to order of Council of 14 September:**

My statement on a report this afternoon is on the state budget for 2021–22.

I would like to draw the attention of the house to the details, on page 19 of this year's budget paper 5, for the fire services property levy.

The relevant entries on that page show the ongoing, significant projected increases that Victorians will bear for that levy over each of the next four financial years. These increases are so substantial that, by 2024–25, the figure is calculated to rise to \$807 million. That represents around a 30 per cent increase in the levy in less than a decade.

I'm obviously happy to be corrected by the emergency services minister's office on this. However, I can only assume that the figures for the levy that are reflected in this year's budget are being heavily impacted by a very significant blowout in the cost of operating Fire Rescue Victoria. This could be a legacy of unprecedented increases in firefighters' wages, including a 5.5 per cent pay increase, from January 2020, for commanders and assistant chief fire officers. A separate 2.5 per cent increase has been received by all other career firefighters.

I foreshadowed this would ultimately come to pass when I spoke about these issues in the debate here in June 2019 on the formation of Fire Services Victoria.

Even then, blowouts in the fire services property levy and firefighters' wages were already clearly apparent as far as I was concerned. This led to the obvious implication that there would be further, and even larger, increases in the future once brigades became comprised of a substantially higher proportion of paid firefighters.

Two years on, those predictions are being proven accurate by a lot of practical evidence. They're also being reinforced by information that I'm consistently hearing from my constituents, or seeing highlighted in the media and the most recent department of justice, CFA and MFB annual reports.

The relevant department of justice report reveals that it spent over \$1.25 billion in fire-related grants in the year leading up to the creation of Fire Services Victoria.

The CFA and MFB reports point to rises in annual wages and leave to totals of \$374 million and \$286 million respectively in some of the largest yearly spikes on record.

These increases would be staggering enough at the best of times. However, they are even more astonishing during a period in which so many other Victorians have been losing their pay, their jobs and/or their businesses because of the COVID restrictions and lockdowns.

There are very many concerning elements about all of this. I would suggest very strongly to the government that it should outline to all Victorians what actions it is taking to urgently reduce the massive costs of running Fire Services Victoria. It should also explain what it is doing to put a halt to the substantial and ongoing increases in the fire services property levy.

AUDITOR-GENERAL*Major Infrastructure Program Delivery Capability***Mrs McARTHUR** (Western Victoria)**Incorporated pursuant to order of Council of 14 September:**

I wish to make a statement on the findings of the Victorian Auditor-General's Office report *Major Infrastructure Program Delivery Capability*.

What has been uncovered by this well-respected body is nothing less than a total indictment on the government's ability to progress, let alone achieve, their many bloated construction promises. Across 74 pages, including independently collated data, projections, and recommendations, the Auditor-General's report confirms in striking and damning detail what the Victorian people have long suspected to be the case: delay, inefficiency, no accountability.

The Victorian people deserve their taxes to be effectively utilised, and to be safe in the knowledge that any increased spending results in better value for their hard-earned dollar.

This concept is the foundation of any good governance, and yet, it is not the case here. According to the released Auditor-General's report, there is a total of \$144 billion of new and existing projects funded—35 per cent higher infrastructure spending since 2019—encompassing 30 major projects in that same period. This is an outrageous and unjustified \$3.8 billion cost increase in two years, as represented in the 2021–22 state budget papers, where the Department of Treasury and Finance noted that the costs for 117 major projects had a net increase of 4 per cent. These projects enjoy significant delays, a lack of genuine strategic planning, and most worrying of all, crippling resource shortages.

In the Auditor-General's independent assessment, paralysing resource shortages are present in not one but four areas of infrastructure delivery: industry workforce personnel, the public sector planning employees, the available construction market firms and even basic construction materials.

Construction workers are sitting on their hands while supply routes to project sites are constantly waiting on critical supplies and workforce personnel.

In the case of high-skilled worker shortages, this is best exemplified by the Major Transport Infrastructure Authority assessing that an astounding 98 per cent of high-skilled construction occupations will have some level of shortage between 2022 and 2025.

This is only exacerbated by the outrageous shortages of qualified public sector employees, where there has apparently been concern about scarcities in project leadership, including technical knowledge, as far back as 2016.

The construction market is lacking too, with three agencies reporting there simply aren't enough construction firms contracted—or even available in the government's pool—to meet project demands!

Given that the state budget forecasts spending on infrastructure will increase an average \$21.9 billion a year between 2020–21 and 2024–25, the Victorian people will rightfully question how effectively this huge slice of taxpayer money will be spent given their past performance.

This government has demonstrated it cannot manage a COVID pandemic properly, just as it cannot manage infrastructure delivery. These problems that have existed since 2016 will undoubtedly get worse. This report points to a government of inefficiency, excess and maladministration. The so-called government pipeline plan of infrastructure projects is a government pipedream that was clearly decided to be a slogan-winning idea before any actual strategic preparations were conducted.

The Auditor-General's office reports:

... no agency fully understands the construction industry and public sector's ability to deliver the government's pipeline, or how effective their work to mitigate resource shortages is.

This has no doubt likely inspired the frustrations of the Auditor-General and their staff, as the government has been consistent over the years on their messaging that they have supposedly six strategies and 80 actions proposed to remedy these glaring issues. This is all well and good; however, the Auditor-General determines these targets to be inadequately coordinated by the agencies led by the government—the so-called task force established by the relevant agencies back in 2015 to stop this ballooning crisis has, in the opinion of the Auditor-General, achieved 'less than a quarter of its planned actions' to address workforce and construction market shortages.

It is no wonder that the government has been unable to prevent this growing disaster of mismanagement. It is the Auditor-General's opinion that none of the relevant government agencies have feasible or reasonable methods with which to measure infrastructure service delivery—the Auditor-General report speaks of the lack of detailed briefings between departmental staff and the government and perhaps most damning of all, in the estimation of the Auditor-General, none of the agencies investigated know the effects of these shortages and how they could affect the pipeline's delivery. This is entirely due to ongoing 'gaps in the agencies' data and limitations in their forecasting models', something that was covered in a previous Auditor-General's report this May—again critical of the government—known as *Measuring and Reporting on Service Delivery*, showing that the models used by the government to report and predict effectiveness of service delivery are obfuscated, limited and in some cases even non-existent.

This report is frankly an indictment on government major project delivery. Honest hardworking Victorians should rightfully expect project quality, timely infrastructure project completion and value for money. How is this even possible when projects are announced without proper, robust costings?

This government has demonstrated a penchant for almost unmatched and increasingly unlimited power, without any reference to accountability and transparency. Victorians have the right to expect the highest standard of infrastructure delivery and this government's failure to deliver this standard over multiple years should be held to account. I do not believe in allowing shortcomings to be left unanswered. I, as any reasonable

Australian would, believe in accountability, exemplary conduct and ownership of wrongdoing. This standard should be the basis of any honourable government.

The current Minister for Transport Infrastructure, and until 2018 the Minister for Major Projects, the Honourable Jacinta Allan, is responsible for multiple shortcomings that have occurred under her purview for years with multiple reports indicating a crisis: she has sat on her hands and shown no leadership in the matter, instead allowing others to take responsibility for her incompetence on a grand scale.

Labor is not the party of project delivery; it is the party of mismanagement and crisis.

Adjournment

Ms SYMES (Northern Victoria—Leader of the Government, Attorney-General, Minister for Emergency Services) (13:55): I move:

That the house do now adjourn.

COVID-19

Mr ONDARCHIE (Northern Metropolitan) (13:55): (1504) My adjournment matter this afternoon is for the Minister for Education. It is regarding student attendance at schools, particularly those students that have special needs. I give thanks to some local constituents who have reached out to me about this very issue, one reporting that they have a daughter who attends a special needs school who has an intellectual disability and does not have the ability to learn from home. As a result, she has missed out on a lot of school, as have many other kids. Due to the government guidelines about remote learning this student has been required to stay at home and cannot go to school.

Now, children who have disabilities, as this parent tells me, do not necessarily learn well remotely, do not learn well from home, and they have a basic right to education and to be safeguarded through their learning. And that is not what is happening. At one point the school said, 'We could perhaps take your student for one day a week'. Well, it is not a childminding centre. These parents are working from home. They are trying to work, and they have a special needs student who needs to be at school.

The school should be open. Children with special needs cannot learn from home, and that is stated on the coronavirus website. When contacting the education department this particular parent, Michael, asked about whether their student should go to school, and the advice was the school should be open for their daughter and other special needs kids. And it is simply not the case. The action I seek from the minister is: open up these schools for special needs children particularly so they can get a decent education, because simply they do not have the capacity to learn from home. I thank Michael and the many other parents who have contacted me on this issue.

SOCIAL HOUSING

Mr BARTON (Eastern Metropolitan) (13:57): (1505) My adjournment today is for Minister Wynne in the other place. Recently Infrastructure Victoria released an updated 30-year infrastructure strategy, which is now being considered by our government. Infrastructure Victoria has made 94 recommendations, one of which focuses on Victoria's social housing strategy. The report recommends that the Victorian government, and I quote:

... set a transparent statewide social housing growth target to reach and maintain at least the national average of 4.5 social housing dwellings for every 100 households by 2031.

It is clear social housing must be a priority. At this time the social housing register is under immense pressure. Despite significant investment in social housing through the \$5.3 billion Big Housing Build, more must be done. The Big Housing Build will increase Victoria's social housing stock by 10 per cent. However, this will still not meet the national average of social housing dwellings, which is 4.5 per cent.

With rents increasing further, it is even more difficult for at-risk Victorians to access safe and affordable housing. We have a homelessness crisis in Victoria. This is not in dispute. Infrastructure Victoria found only 11.4 per cent of new Victorian rentals are affordable for someone receiving

Centrelink benefits, and they estimate that in order to keep up with the population growth there would need to be an additional 1700 social housing stock built each year, with up to 8300 needed annually to cover all evident need. This is both achievable and necessary. We must commit to a statewide social housing growth target that brings Victoria up to the national average of 4.5 per cent if we are going to turn this crisis around.

I know that in Eastern Metropolitan Region hidden just below the surface of our leafy greens streets many are struggling. Women and children are sleeping in their cars, having escaped family violence, young people are sleeping on friends' couches and hundreds of people are being turned away from homelessness services each and every night. Our most vulnerable are being forced into a revolving door of rooming houses and motels. They have no stability. These Victorians are just as deserving of having a roof over their heads. It is time we caught up with the rest of the country. The government must do everything they can to provide Victorians with safe and affordable housing. That is their responsibility, so the action I seek is: will the government commit to a social housing growth target that will bring Victoria in line with the national average of 4.5 per cent by 2031?

COVID-19

Ms LOVELL (Northern Victoria) (13:59): (1506) My adjournment is for the Premier, and it concerns the recently announced trading restrictions placed on regional Victorian hospitality venues. The action that I seek from the Premier is for him to immediately reconsider his mandated patron limit of 10 patrons inside and 20 patrons outside at a hospitality venue in regional Victoria that came into effect last Thursday night and to increase the patron limits of these venues so that traders can actually exceed their operating costs and record a profit.

The Andrews Labor government continues to have lockdown as the first option mantra when dealing with the current outbreak of COVID-19. On 21 August the Premier gave country Victorians less than 3 hours notice of the lockdown of the entirety of regional Victoria, in line with metropolitan Melbourne, to combat the COVID outbreak in Shepparton. With the Shepparton outbreak brought under control, thanks to our wonderful local effort by our local health services and wider community, the lockdown in regional Victoria, excluding Greater Shepparton, was lifted at 11.59 last Thursday night and will be lifted in Shepparton from 11.59 tonight.

As a leader completely devoid of any plan to help Victoria's recovery from the pandemic, the Premier's announcement was seen as a very dim light at the end of a never-ending tunnel. Unfortunately the devil is always in the detail with Daniel Andrews, and the prohibitive restrictions on hospitality businesses, all of whom have done it so tough for the last 18 months, were no consolation whatsoever. Regional Victorian restaurants, cafes, hotels and clubs are limited to just 10 patrons inside and 20 patrons outside at any one time, irrespective of the size of their venue or the number of different areas or rooms in the venue. This ridiculous limit makes it a waste of time for most hospitality businesses to open, with owners being unable to meet the cost of staff wages, stock and utilities.

What is most galling for these small business operators is what they see when they look north to New South Wales. For my electorate, the border with New South Wales is right on the edge. In New South Wales, hospitality businesses can open without a customer cap, with traders complying with density limits of one person per 4 square metres inside and one person per 2 square metres outside. This is a more fair and equitable system, which would help struggling hospitality businesses right across regional Victoria and particularly in the twin border towns in my electorate, where the frustration of the harsh Victorian restrictions is in such contrast to those we see just a few hundred metres away across the border but still part of what locals consider to be one community. It would also help Victorian businesses to retain staff, as many of their employees are leaving to work in New South Wales as jobs there are seen to be far more stable, as they are not subject to regular and prolonged lockdowns. I call on the Premier to adopt the same density rules as in New South Wales for regional Victoria.

COVID-19 VACCINATION

Mr QUILTY (Northern Victoria) (14:02): (1507) My adjournment matter is for the Minister for Health. Respect for consent is a core value of the Liberal Democrats philosophy. We believe that people should not be forced to do anything against their will, except prevent people from harming others. Consent is the magic ingredient in a free society. Consent is the difference between boxing and criminal assault, between sex and rape. Violating someone's consent is a serious offence, especially when it involves deeply held personal beliefs and moral convictions. This government has announced that all health workers must be vaccinated or they will lose their jobs, not just public hospital employees but all medical workers—and education is to be next. What is more insidious is that the government is leaning on businesses and organisations like Racing Victoria to force all participants to get vaccinated and there are moves to pressure the construction industry into forcing all workers to get their jabs. I have no doubt the government will follow New South Wales's example and implement a requirement that businesses force their staff to get vaccinated and turn away customers who cannot prove their vaccination status.

The COVID check-in app will likely be subverted and used as a mass surveillance tool to assist in enforcing these mandates. There is no justification for forced COVID vaccinations. In some cases vaccines produce herd immunity, wherein vaccinated people protect the unvaccinated and immunocompromised people from infection, but COVID is not one of those cases. Our COVID vaccines are not effective in preventing transmission. Countries with high vaccination rates still have high rates of COVID transmission, and studies show that the delta strain is still highly transmissible even after two doses of the vaccine. The benefit from these vaccines is for the person receiving the vaccine. From what we currently know, you are not harming or endangering others by refusing the vaccine; you are only placing yourself at risk. So again, there is no justification for forced COVID vaccinations.

Throughout this pandemic, the government has refused to rely on persuasion, refused to rely on consent. Instead, you have used coercion and force at every turn. The vast majority of Victorians will get vaccinated without this coercion. It is not required and will end up backfiring. The government will not succeed in imposing vaccine mandates and vaccine passports. The people will push back. I call on the minister to respect the consent of Victorians and to abandon any mandatory vaccination requirements.

COVID-19

Mr FINN (Western Metropolitan) (14:05): (1508) I wish to raise a matter for the attention of the Minister for Health, so I shall speak slowly. There has been a great deal of speculation of recent times about what could be described as a hard lockdown, a radical hard lockdown, in parts of Melbourne. What I am concerned about is that there may well be this radical hard lockdown in the City of Hume. Now, there are parts of the City of Hume which have a lot of the Wuhan virus—at Roxburgh Park and Craigieburn they seem to have it prevalent—but there are also parts of Hume, such as Sunbury, such as Bulla, such as Gladstone Park and Tullamarine, that do not have it at all. It would be an act of folly if we were to lock everybody down in the City of Hume because a couple of places had more of the virus than others, keeping in mind of course that the people of Sunbury do not even want to be in Hume. The only reason they are in Hume is that this government broke its promise to them in the last term of government. They wanted to get out of Hume, and given half a chance they will still do that. But what I am asking the minister to do is to provide a guarantee to the people of Sunbury, Bulla, Gladstone Park and Tullamarine that they will not be included in any hard lockdown of the City of Hume that would prevent people from attending medical clinics and would prevent people from attending supermarkets and so forth. It is lunacy in my view, but unfortunately this government is renowned for that, and I am a bit concerned that when these rumours circulate, generally speaking, the next day they become fact. So I ask the minister to give that guarantee.

LEVEL CROSSING REMOVALS

Dr CUMMING (Western Metropolitan) (14:07): (1509) My question is for the Minister for Transport Infrastructure, and it is from a resident in Werribee. The action that I seek is for the minister to address the allegations made against the level crossing removal authority—including those of overstating costs, avoiding improvements and the failure of the U-trough railway bridge to meet safety standards—and to answer my constituent's questions.

The regional rail authority voiced concerns about the safety of the beams carrying trains over the roadways where the rail crossing had been removed and are concerned that the level crossing removal authority is building bridges that do not meet their guidelines for an event when a train comes off the tracks. Now, engineers claim that U-trough railway bridges have not passed safety modelling for carrying heavy V/Line and goods trains. The level crossing removal authority acknowledge that the beams cannot withstand any likely derailment loads from freight trains at nominal track class speeds, yet their CEO dismissed these claims, stating that the beams are safe.

The regional rail authority engineer has also stated that it took months for the level crossing removal authority to respond to even a small safety improvement to works that did not meet the standards. That engineer further stated that it is regrettable that the level crossing removal authority has done all it can to overstate any cost, avoid any alternatives and avoid improving the beams to near-compliance design.

There has already been a fatal derailment at the Werribee Street North rail crossing—a few years ago—which now has the subject beams in place over a busy road and a community space. A derailment has occurred at the Princes Highway overpass in Laverton, causing substantial damage to a passenger train, and a goods train derailed at Werribee station, virtually demolishing the platforms. So derailments are not unusual and do occur occasionally and as such should be considered in the design process without question.

Has the public interest been completely ignored? Who vets the authority's projects and the supposed benefits? What authority and expertise does the level crossing removal authority have to determine the questionable or absolute safety of its projects? My community needs reassurance that these issues will be addressed and that the proper decisions will be made for them and their families' safety.

BANYULE PLANNING SCHEME AMENDMENT

Dr BACH (Eastern Metropolitan) (14:10): (1510) One of the most beautiful parts of my electorate is the suburb of Rosanna. So many families flock to Rosanna because of its rolling hills, friendly neighbourhoods and leafy environs. But it is possible that all of this is about to change, and many locals are concerned. Many residents in Rosanna have come to speak with me recently because the government is considering an amendment to the planning scheme to rezone land on Beetham Parade with a planning permit to construct a seven-storey building. This building would easily be the tallest building in Rosanna, it would overshadow numerous other residences, it would increase parking congestion on nearby streets and it would fundamentally change the character of a wonderful suburb. Now, the people of Rosanna are not averse to change, and they understand that more and more people will want to come to their suburb because it is such a beautiful place. But they want that change to be managed in a reasonable way—in a way that values their views. At present, they have not been consulted.

Here is where the process sits at the moment. The Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee is set to advise the government of its views in the coming days. I call upon the Minister for Planning to ensure that an opportunity has been made to meet with the residents who organised the petition that my friend Mr Atkinson tabled in this place just yesterday—to meet with them, to hear from them, to value their views and to seek their input—before any final decision is made. Again, these are reasonable people. All they want is for their views to be heard to ensure that as more people come into their local area, that is managed in a proper and

appropriate way. They fear right now, because of the lack of consultation from the Andrews Labor government, that that is not the case.

MELBOURNE MEDICALLY SUPERVISED INJECTING FACILITY

Ms CROZIER (Southern Metropolitan) (14:12): (1511) My adjournment matter this afternoon is to the Minister for Health, and it relates to the second injecting room and the consultation process undertaken by Mr Ken Lay, AO, APM. Now, as this chamber is well aware, I have spoken about the injecting room in North Richmond, which is next to a primary school, which has caused all manner of grief to that community, whether it is because of the antisocial behaviour, the drug taking, the crime—the really very concerning issues that have arisen in that community. And that community, like the one Dr Bach has just been speaking about, feel that they have not been heard by the government.

Mr Lay was supposed to hand down his report late last year, but we are still none the wiser about where this report is. There are reports, obviously, around the second injecting room going into Flinders Street, into the old Yooralla building. I and my colleague Ms Kealy have been down there and have spoken to those residents and also traders who have been whacked not only by the Metro Tunnel works but by the COVID restrictions, which have decimated the entire CBD, and now an injecting room in there is going to have a further impact.

What I am asking for is for the government to release the report undertaken by Mr Lay so that all Victorians can see the process that has been considered and that we have a thorough understanding of what the government intends to do with this injecting room and indeed any further injecting rooms that might be put across our suburbs.

COVID-19

Mr DAVIS (Southern Metropolitan—Leader of the Opposition) (14:13): (1512) My matter for the adjournment today is for the attention of the Minister for Health. Ballarat is about to be locked down. There are obviously rising cases there, and the Ballarat community is about to be locked down for one week, at least.

Ms Crozier: No curfew?

Mr DAVIS: No, but, Ms Crozier, this is a very serious matter, and on this point there will be, behind the order to lock down Ballarat, a brief that is provided to the chief health officer. I say if the Premier, the chief health officer and the health minister are going to slam Ballarat shut—maybe with good justification—the community should see the brief. They should be able to look at this brief, to examine it and to understand in full the decision that has been made. I say that the Premier and the health minister should today release that brief and ensure that the whole Ballarat community gets to see it. They should send a copy to the council, they should send a copy to the local hospital and they should send a copy to the local newspaper and—

Members interjecting.

Mr DAVIS: I was getting to the local MPs—it should also go to the local MPs. All in the community should be able to see the reasons, the calculations and the decisions that have been made. Transparency is important here and honesty is important, and it is time the government came clean. They have never once, not once, released the briefings behind the health information and the health decisions—not once—and I say in the case of Ballarat today they are entitled to see the reasons.

CASUAL EMPLOYMENT

Mrs McARTHUR (Western Victoria) (14:15): (1513) My adjournment debate is for the Minister for Employment. Last month the High Court of Australia handed down a landmark employment law decision in *WorkPac Pty Ltd v. Rossato*. In that decision the court overturned earlier decisions of the full Federal Court and held that the casual or permanent classification of a worker's employment should be determined by having regard to their contract as opposed to the nature or substance of the

relationship with their employer. This was critical in establishing that casual employees do not qualify for permanent employee entitlements such as paid annual leave, personal leave and compassionate leave under the Fair Work Act 2009. Casual employment plays a crucial role in the Victorian economy. It is vital for small businesses because they require the ability to respond to fluctuations in sales, and often their profit margins are too small to employ many workers on a permanent basis. Casual employment is especially vital for young people because they need job opportunities that are flexible and attainable.

Unsurprisingly, given their total lack of private sector experience and disdain for private enterprise, the Labor government has denigrated casual employment, often referring to it as ‘insecure work’. In November last year, when the government introduced the secure work pilot scheme, I raised many issues relating to the government’s treatment of casual workers. We should view casual workers as an important part of our state’s economy and not degrade them by implying their work is inferior to that of permanent employees or suggesting that they need saving from these ubiquitous pathological bosses that the government has dreamed up. Of course the government should be seeking to address legitimate cases of insecure work where casual employees are treated illegally, as well as assisting workers who are outside the legitimate workforce—those paid cash and in the black economy. These should be recognised as the exception, however, and not the rule.

The High Court’s decision should be welcomed because we must appreciate the real distinction between casual workers and permanent employees and the different but equally crucial roles they play in the Victorian economy. The Labor government has decimated casual employment opportunities in this state through small business crushing, repeated lockdowns and numerous tax hikes and new taxes, but a Guy Liberal government will navigate a path to economic recovery. The action I seek from the minister is to publicly welcome the High Court’s decision and then clearly outline what the Andrews government’s plan is to salvage the thousands of casual jobs lost through these lockdowns.

CLYDE ROAD, BERWICK, PEDESTRIAN INFRASTRUCTURE

Mr RICH-PHILLIPS (South Eastern Metropolitan) (14:18): (1514) I raise a matter this afternoon for the attention of the Minister for Roads and Road Safety in the other place, and it relates to the provision of pedestrian access along Clyde Road in Berwick South. I have received representations from constituents regarding the need for the construction of a footpath on the western side of Clyde Road between Moondarra Drive and Glasscocks Road. This is an area which has some open space and some water features, but it does not have a complete footpath between those two intersections. Also lacking on Clyde Road at the Moondarra Drive intersection is a pedestrian crossing on the north side of that intersection. There are pedestrian crossings on the other three sides of the Moondarra Drive–Clyde Road intersection, but not on the north side, which means people wanting to cross east to west often have to cross two crossings rather than a single crossing because of the absence of a crossing on the north side.

In order to provide the connectivity that my constituents in Berwick South require, I ask the minister for roads to ensure that a footpath is constructed on the west side of Clyde Road between Moondarra Drive and Glasscocks Road and that a pedestrian crossing is constructed at the Moondarra Drive intersection, on the north side. This is a matter which has been bouncing back and forth with the City of Casey. It is very clear that this is a VicRoads road and that it falls within the jurisdiction of the Victorian government, and I call on the minister to ensure that these works are completed so that my constituents can have pedestrian access along Clyde Road.

BUSH NURSING CENTRES

Ms BATH (Eastern Victoria) (14:20): (1515) My adjournment matter this afternoon is for the Minister for Health in the other place, and it relates to the ongoing lack of funding which hinders our bush nursing centres. The action I seek from the minister is to fund bush nursing centres in line with CPI. This is not actually a big ask, but they are being squeezed tighter and tighter. Our bush nursing centres certainly play a vital role in supporting remote areas in regional Victoria. From the first

responders to the provision of palliative care, our bush nurses do an amazing job, often working 24/7 to provide that health service and in actual fact to take the pressure off patients from moving on and having to go further afield.

Since 2021 the Swifts Creek Bush Nursing Centre has been providing drive-through testing for local residents who present with symptoms that could potentially be coronavirus. Rather than directing them on to Bairnsdale and therefore spreading the virus even further, they swab them on location and then they can return home to isolate. They have been also vaccinating residents three days a week. What happens when it is done three days a week is that other services have to be diminished in order to continue to support this venture, and it is very important that we fight the pandemic in this way. To administer 140 vaccinations three days a week, as I said, other services have been compromised, and they cannot take their walk-in patients as normal.

Now, one would think that it is not too big a task to ask for funding to be provided in line with CPI. Swifts Creek lost \$12 000 in the current financial year and is set to lose \$19 000 next year. This is paltry in terms of the government coffers, but it actually means a huge deal to the residents and this particular bush nursing centre. And it is replicable across the other bush nursing centres. The action I seek from the minister is to provide this ongoing funding so that bush nursing centres will not have to make a compromise in what services they deliver to rural and regional people.

WASTE AND RECYCLING MANAGEMENT

Ms VAGHELA (Western Metropolitan) (1516)

Incorporated pursuant to order of Council of 7 September:

1. My adjournment matter is directed to the Honourable Lily D'Ambrosio, MP, the Minister for Energy, Environment and Climate Change and Minister for Solar Homes.
2. My adjournment matter relates to the minister's portfolio responsibilities for energy, environment and climate change.
3. Minister, the Andrews Labor government is leading the way in reforming Victoria's waste and recycling industry to pave the way for a more eco-friendly and sustainable future.
4. Seventeen local councils will share more than \$1 million in grants to deliver education and behavioural change campaigns ahead of the transition to a four-bin recycling service.
5. Victorians will soon be sorting their household waste and recycling into four bins—with a separate bin for glass recycling and food and garden organics.
6. This forms part of our state's circular economy policy, with the aim of diverting 80 per cent of waste from landfill by 2030.
7. All local government areas will transition to a new glass service by 2027 and a new food and garden organics service by 2030.
8. Some local governments, like Hobsons Bay City Council and Macedon Ranges Shire Council, are leading the way in the rollout, having already introduced new kerbside bins.
9. This support will assist councils to provide the tools for Victorians to understand what is changing and how they can contribute to our state's circular economy.
10. This investment coincides with the over \$515 million invested into the Andrews Labor government's significant reform of the waste and recycling industry.
11. This includes \$380 million to deliver Recycling Victoria, which works towards reducing waste, boosting jobs and creating a circular economy.
12. The action I seek from the minister is to please advise me how constituents in my electorate of Western Metropolitan Region will be made aware of this important initiative.

HEALTH SECTOR WORKFORCE**Ms PATTEN** (Northern Metropolitan) (1517)**Incorporated pursuant to order of Council of 7 September:**

My adjournment matter is for the Minister for Health, Mr Foley, and the action I seek relates to the wellbeing of our healthcare workers.

Our entire healthcare workforce is feeling the stress of working during a pandemic.

The Victorian government acknowledged the pressure the workforce was under when the previous minister announced extra funding for the nursing and midwifery health program and the Victorian doctors health program.

These programs offer free, independent and confidential support services for doctors and nurses who may be experiencing anxiety or depression or have concerns about alcohol or drugs.

In a media release titled 'More health support for our frontline heroes', the government announced an extra \$850 000 for these programs.

The issue I raise is that there are more healthcare workers experiencing stress than just doctors and nurses.

Take Grace, for example. She's an occupational therapist who has been helping on COVID-19 wards during the latest outbreak. She experiences the same stress of the COVID ward, the same fear of infecting her household and the same vicarious trauma of watching people struggling to breathe, but she cannot access the same support for her mental health.

Her mental health should be treated with the same respect as her nursing colleagues. Whether they work in disability, aged care, sonography or occupational therapy, they are all experiencing high levels of stress because of this pandemic. They all deserve free and full support for their mental health.

That is why the action I seek is that the health programs for doctors, nurses and midwives to which I have referred be extended to all Victorian healthcare workers.

RESPONSES

Ms STITT (Western Metropolitan—Minister for Workplace Safety, Minister for Early Childhood) (14:22): There were 12 adjournment matters this afternoon to a range of ministers and the Premier, and I will ensure that the responses are provided in accordance with the standing orders.

The PRESIDENT: The house stands adjourned.

House adjourned 2.22 pm.